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UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION



COMMISSIONERS: Maureen Ohlhausen, Acting Chairman
Terrell McSweeney

In the Matter of

Tronox Limited
a corporation,

National Industrialization Company
(TASNEE)
a corporation,

National Titanium Dioxide
Company Limited (Cristal),
a corporation,

AND

Cristal USA Inc.
a corporation.

Docket No. 9377

ORIGINAL

**NON-PARTY PPG INDUSTRIES, INC.'S MOTION TO QUASH OR LIMIT
SUBPOENAS**

PPG Industries, Inc. ("PPG"), by and through its undersigned counsel and pursuant to 16 C.F.R. § 3.34(c), respectfully moves this Court to quash or limit the subpoena *duces tecum* and subpoenas *ad testificandum* ("the Subpoenas") served on it by Tronox Limited ("Tronox"), or in the alternative deny Respondents' Joint Motion to Amend the Protective Order Governing Confidential Information ("Mot. to Amend"), because PPG's confidential and proprietary information will not be adequately protected if the Protective Order entered in this matter is amended to allow Respondents' designated in-house counsel to review confidential and

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proprietary information produced by PPG.¹

BACKGROUND

PPG is a manufacturer and distributor of a broad range of coatings and is a customer of Respondents for titanium dioxide (“TiO₂”).

In June 2017, PPG received a Civil Investigative Demand (“CID”) in connection with the Government’s investigation of Respondents’ proposed merger. The CID sought competitively sensitive information relating to PPG’s purchase, supply, and sourcing strategy relating to TiO₂. In responding to the CID, PPG understood and expected that its materials would be protected from disclosure under Commission Rules governing confidentiality.

In December 2017, this action ensued. The Court immediately entered the standard protective order, consistent with Commission Rule 3.31(d), which prohibits the disclosure of confidential information to “employees of a respondent,” including in-house counsel. Protective Order ¶ 7.

In January 2018, Tronox served PPG with three subpoenas: (1) a subpoena *duces tecum*² (2) a subpoena *ad testificandum* for a specific PPG witness, and (3) a subpoena *ad testificandum* for PPG in its corporate capacity. Far broader than the Government CID, the Subpoenas contain 22 document requests (“Requests”), Ex. 1 (Subpoena for Documents), and 18 deposition topics, Ex. 2 (Subpoena for Corporate Testimony), seeking competitively sensitive and trade secret information on a variety of topics, including all materials PPG has produced to any government body relating to TiO₂ (Request Nos. 1, 4-5, 7-8); documents relating to PPG’s purchasing, pricing, contract negotiations, projections, and strategy related to TiO₂ (Request Nos. 9-16, 21-

¹ PPG reserves the right to move to quash or limit the Subpoenas on other grounds.

² Tronox originally served the Subpoena *duces tecum* on January 24, 2018. Tronox withdrew and issued a replacement subpoena on January 30, 2018.

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22); and any documents related to the proprietary processes used by PPG to qualify grades of TiO₂ for use (Request Nos. 18-19). Attached to all three Subpoenas was the current Protective Order, which prohibits the disclosure of confidential information to Respondents' in-house counsel. *See id.*³

Learning that Respondents had moved to amend the Protective Order to allow Respondents' designated in-house counsel to review confidential material, PPG contacted Tronox to express its concern that its competitively sensitive and trade secret information would be shared with Respondents' in-house counsel. Told that Respondents would not agree to exempt PPG from their proposed amendment, PPG brings this motion to protect its confidential material.

ARGUMENT

I. THE SUBPOENA MUST BE QUASHED OR LIMITED TO PROTECT PPG'S CONFIDENTIAL INFORMATION.

As this Court has observed, it "must be particularly cautious" when it comes to the "proprietary materials" of non-parties. *In re Rambus, Inc.*, No. 9302, 2003 WL 21485858, at *2 (F.T.C. June 11, 2003). This Court routinely denies requests for in-house counsel to have access to confidential material where: (1) the non-party had "a right to expect" that its documents would "be treated in accordance to the Protective Order provided to them," (2) the designated in-house counsel is involved in "competitive decision-making," or (3) there is no "special circumstances that might justify deviation from the standard protective order language." *In re ECM BioFilms, Inc.*, No. 9358, 2014 WL 1818841, at *4 (F.T.C. Apr. 24, 2014); *see also In re McWane, Inc.*, No. 9351, 2012 WL 3518638, at *2 (F.T.C. Aug. 8, 2012); *In re Intel Corp.*, No. 9288, 1998 WL

³ The original subpoena also attached a copy of the current Protective Order. *See Ex. 3.*

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34060099, at *1 (F.T.C. July 31, 1998). The Subpoenas should be quashed or limited for all of these reasons.

A. PPG Has a Right to Expect that Its Confidential Information Will Not be Shared with In-House Counsel.

In producing confidential and proprietary materials to the Government, PPG relied on the assurances provided in the Commission Rules that its information would be protected from disclosure to Respondents' employees, including its in-house counsel. Commission Rule 3.31(d) specifically provides that: "In order to protect the parties and *third parties* against improper use and disclosure of confidential information, the Administrative Law Judge *shall* issue a protective order as set forth in the appendix to this section." 16 C.F.R. § 3.31(d) (emphasis added). The standard protective order prohibits the disclosure of confidential material to "employees of a respondent." *Id.* at Appendix A. This Court adopted the standard protective order in full on December 7, 2017.

Respondents argue that "there are no concerns" that any third party relied on the Protective Order because it was entered "*after* third parties provided confidential material." Mot. to Amend at 5 (emphasis added). But this is disingenuous. The rules *require* entry of the standard protective order. *See* 16 C.F.R. § 3.31(d). Further, as the Commission itself has stated, the purpose of Rule 3.31(d) is to "ensure that privileged or confidential information is *treated consistently in all Part 3 cases.*" Ex. 4 (12/23/08 FTC Press Release) (emphasis added); *see also* Fed. Reg., Vol. 74, No. 8 at 1812 (Jan. 13, 2009) (explaining that the absence of a standard protective order would "prevent the Commission from protecting confidential information in a uniform manner in all Part 3 cases, and reduce the confidence of third party submitters that their confidential submissions will be protected").

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In other words, PPG had every right to expect that its confidential information would be protected from disclosure and that the standard protective order would apply in this case.

B. Respondents' Designated In-House Counsel Are Involved in Competitive Decision-Making.

The Subpoenas should also be quashed or limited because there is significant risk that Respondents' in-house counsel will disclose PPG's confidential information through advice, discussions, or documents, because they are involved in competitive decision-making. In merger cases, courts routinely deny in-house counsel access to confidential material in such circumstances because there is a "risk that such information will be used or disclosed inadvertently because of the lawyer's role in the client's business decisions." *United States v. Aetna, Inc.*, No. 1:16-cv-01494 (JDB), 2016 WL 8738420, at *5 (D.D.C. Sept. 5, 2016); *FTC v. Sysco Corp.*, 83 F. Supp. 3d 1, 3-4 (D.D.C. 2015). This is because "information, once learned, is impossible to forget." *Aetna*, 2016 WL 8738420, at *5.

The risk of inadvertent disclosure is especially high in this case where the profiles of Respondents' in-house counsel confirm that they are regularly involved in competitive decision-making and strategy. For example, according to the Linked-in profile of James Koutras, Director – Senior Corporate Counsel and Secretary at Cristal USA, Inc., he has "extensive experience" in "commercial transactions" and "[a]dvises on various regional and global *strategic initiatives*." Ex. 5 (emphasis added). Steven Kaye, Deputy General Counsel for Tronox Limited, similarly touts in his LinkedIn profile that he "[m]anages *all legal aspects of the Company's corporate activity and Titanium Dioxide business*, including *M&A*, corporate finance, regulatory, labor and employment, environmental *and commercial matters*." Ex. 6 (emphasis added).

The declarations submitted in this matter confirm that Mr. Koutras and Mr. Kaye are involved in competitive decision-making. In stunningly similar declarations, Mr. Koutras and

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Mr. Kaye admit to providing advice and participating in decisions relating to “competition with other titanium dioxide suppliers” and “pricing strategies.” Mot. to Amend at Ex. A (Koutras Decl.) at ¶ 8; Mot. to Amend at Ex. B (Kaye Decl.) at ¶ 8. Mr. Koutras also attests to “sporadically participat[ing] in matters involving Cristal’s price increase announcements and contractual disputes.” Mot. to Amend at Ex. A (Koutras Decl.) at ¶ 9. Mr. Kaye, for his part, admits that he “sporadically participate[s] in meetings where potentially competitive sensitive issues are discussed.” Mot. to Amend at Ex. A (Kaye Decl.) at ¶ 9.

While Mr. Koutras and Mr. Kaye try to downplay their involvement in some of these decisions by stating that they only provide “legal advice,” that does not absolve them from being involved in competitive decision-making. As this Court has explained, “competitive decision-making” is “shorthand for a counsel’s activities, association, and relationship with a client that are such as to *involve counsel’s advice and participation in any or all of the client’s decisions (pricing, product design, etc.)* made in light of similar or corresponding information about a competitor.” *In re Schering-Plough Corp.*, No. 9297, 2001 WL 1478377, at *1 (F.T.C. June 8, 2001) (emphasis added). Indeed, the problem with “granting in-house counsel access to confidential information” is that it puts counsel “in the untenable position of having to refuse his employer legal advice on a host of contract, employment, and competitive marketing decisions lest he improperly or indirectly reveal a competitor’s trade secrets.” *Aetna*, 2016 WL 8738420, at *5 (internal quotation marks and citation omitted).

Tellingly, Respondents gloss over their in-house counsel’s involvement in competitive decision-making, and instead focus on purported “past practice in merger challenges.” Mot. to Amend at 3. In particular, Respondents try to analogize this case to *F.T.C. v. Advocate Health Care Network* (“*Advocate*”), 162 F. Supp. 3d 666 (N.D. Ill. 2016). But that case *undermines*

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Respondents' position. In *Advocate*, the court found that "neither the FTC nor certainly the defendants had any concern about the [third parties'] information when they hammered out the terms" of the protective order. *Id.* at 673. In discussing the risk of inadvertent disclosure, the court found that "[t]he inescapable reality" is that once a lawyer "learns the confidential information that is being sought, that individual cannot rid himself of the knowledge he has gained." *Id.* at 669 (citation omitted). Thus, "the only sure way to protect the [third parties'] confidential information is to carve out a special category of Highly Confidential information for them that is *not accessible* to in-house designees." *Id.* at 674 (emphasis added).

Respondents also point to prior litigation in which "North American TiO₂ producers and buyers" purportedly agreed to allow designated in-house counsel to review confidential information. Mot. to Amend at 4 (citing *Valspar Corp. v. Millennium Inorganic Chem., Inc.*, No. 13-cv-03124, Dkt. No. 120 (D. Minn. July 7, 2014); *In re Titanium Dioxide Antitrust Litig.*, No. 1:10-cv-00318, Dkt. No. 198 (D. Md. Sept. 21, 2011)). But these examples are irrelevant. In neither case does it appear that a non-party was involved in negotiating the Protective Order. *See id.* In short, Respondents "seem to put out of the equation that we are not talking about an exchange of documents between two sides in a lawsuit. We are talking about a . . . third part[y], not [a] target[] of any FTC action, who had to give up exceedingly confidential information in response to a government subpoena," and is being asked to give up even more by Respondents. *Advocate*, 162 F. Supp. 3d at 67-72.

C. Respondents Have Not Asserted any Special Circumstance that Justifies Deviation from the Current Protective Order.

Respondents argue that this merger challenge is "time-sensitive" and "proceeding under tight discovery timelines," and thus, they have a special need for the "substantial experience and expertise" of their in-house counsel. Mot. to Amend at 6. These explanations are the opposite of

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“special.” Virtually every merger case proceeds rapidly, and every merger challenge brought by the Commission is subject to the rules that apply here. Further, Respondents merely “cite, very general, boilerplate language regarding attorneys needing to share facts with their clients in order to adequately represent them.” *Advocate*, 162 F. Supp. 3d at 671. They do not “explain what specific benefit the in-house counsel will confer or how defense of the companies will be prejudiced or harmed by lack of access.” *Aetna, Inc.*, 2016 WL 8738420, at *8.⁴

Further, in amending Rule 3.31(d), the Commission specifically contemplated and rejected giving in-house counsel access to confidential information:

The Commission’s statutory obligation to maintain the confidentiality of commercially sensitive information . . . raises serious questions about the wisdom of allowing disclosure of information in its custody to in-house counsel, who might intentionally or unintentionally use for purposes other than assisting in respondent’s representation, for example, by making or giving advice about the company’s business decisions. *The Commission believes it is not sound policy to allow third party competitively sensitive information to be delivered to people who are in a position to misuse such information, even if inadvertently.*

Fed. Reg., Vol. 74, No. 8 at 1812-13 (Jan. 13, 2009) (emphasis added).

Moreover, if anything, the “special” circumstances of this case counsel *against* allowing in-house counsel to access confidential non-party information. As Respondents themselves note, the TiO₂ industry has repeatedly been the subject of antitrust litigation. Mot. to Amend at 4. In a recent case, the Third Circuit found that “there is little doubt” that the TiO₂ industry “was conducive to price fixing” because it is a “highly concentrated market for a commodity-like product with no viable substitutes and substantial barriers to entry.” *Valspar Corp. v. E.I. Du Pont De Nemours and Co.*, 873 F.3d 185, 197 (3d Cir. 2017). In other words, the stage is set for the misuse of competitively sensitive information. Allowing in-house counsel who are involved

⁴ This is particularly so, given that the parties are represented by sophisticated outside counsel with substantial antitrust experience. For example, Tronox is represented by Matthew Reilly, who served for five years as the head of the FTC’s Mergers IV division.

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in competitive decision-making to view this information only heightens the risk of inadvertent disclosure and misuse of PPG's confidential information.

D. PPG Will Suffer Irreparable Harm if Its Confidential Information is Disclosed to Respondents' Designated In-House Counsel.

Finally, the Subpoenas must be quashed or limited because allowing Respondents' in-house counsel to access its confidential information is likely to cause PPG irreparable harm. Tronox is asking for the most competitively sensitive and trade secret information that PPG generates, including information related to its product formulations, pricing, projections, and sourcing strategy. If Respondents' in-house counsel are allowed to access this information, PPG is likely to suffer severe financial harm and competitive disadvantage, as Respondents are able to utilize this information in future contract negotiations with PPG, or its competitors, for TiO₂ supply. *See Aetna*, 2016 WL 8738420, at *6. To the extent Respondents gain access to any documents bearing on how PPG may respond to Respondents' merger, this will also put PPG at a significant competitive disadvantage.

CONCLUSION

For the foregoing reasons, PPG respectfully requests that the Court quash the Subpoenas or limit them such that no employee of Respondents, including in-house counsel, is permitted to review any material designated by PPG as confidential. Alternatively, PPG respectfully requests that the Court deny Respondents' Joint Motion to Amend the Protective Order Governing Confidential Material.

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Dated: February 1, 2018

Respectfully submitted,

/s/ J. Robert Robertson

J. Robert Robertson

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Attorneys for PPG Industries, Inc.

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STATEMENT REGARDING COMMUNICATION WITH COUNSEL

Pursuant to Paragraph 4 of the Court's December 20, 2017 Scheduling Order and 16 C.F.R. § 3.22(g), I certify that counsel for Respondents have conferred with Complaint Counsel in good faith to resolve by agreement the issues raised by this motion and have been unable to reach such an agreement. The parties met and conferred on the following occasions:

- Friday, January 26 at 4:30 p.m. by phone – Attending the meet and confer were Ms. Leigh Oliver and Ms. Kimberly Rancour on behalf of non-party PPG and Mr. Zachary Avallone and Mr. Don Hong on behalf of Respondent Tronox.
- Tuesday, January 30 at 3:15 p.m. by phone – Attending the meet and confer were Ms. Kimberly Rancour on behalf of non-party PPG and Ms. Emily Merki on behalf of Respondent Tronox.
- Wednesday, January 31 at 5:02 p.m. and 8:59 p.m. by email – The email exchange included Ms. Kimberly Rancour on behalf of PPG and Ms. Emily Merki and Mr. Zachary Avallone on behalf of Tronox.

Dated: February 1, 2018

Respectfully submitted,

/s/ J. Robert Robertson

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Attorney for PPG Industries, Inc.

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UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Maureen Ohlhausen, Acting Chairman
Terrell McSweeney

In the Matter of

Tronox Limited
a corporation,

National Industrialization Company
(TASNEE)
a corporation,

National Titanium Dioxide
Company Limited (Cristal),
a corporation,

AND

Cristal USA Inc.
a corporation.

Docket No. 9377

PROPOSED ORDER

Pending before the Court is Non-Party PPG Industries, Inc.'s Motion to Quash or Limit Subpoenas. For the reasons stated in the foregoing motion:

[] Non-Party PPG Industries, Inc.'s Motion to Quash or Limit Subpoenas is

GRANTED.

[] Respondents' Joint Motion to Amend the Protective Order Governing Confidential Material is **DENIED.**

ORDERED:

D. Michael Chappell
Chief Administrative Law Judge

Date:

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EXHIBIT 1

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KIRKLAND & ELLIS LLP
AND AFFILIATED PARTNERSHIPS

Zachary A. Avallone
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January 30, 2018

PPG Industries, Inc.
c/o Robert Brown
One PPG Place
Pittsburgh, PA 15272

Re: Tronox/Cristal FTC Administrative Proceedings

Dear Bob:

Tronox is hereby withdrawing its January 24, 2018, subpoena *duces tecum* issued to PPG. Tronox has issued a replacement subpoena with an updated date of compliance of February 13, 2018.

Please do not hesitate to reach out if you have any questions.

Sincerely,

/s/ Zachary A. Avallone

Zachary A. Avallone



SUBPOENA DUCES TECUM

Provided by the Secretary of the Federal Trade Commission, and
Issued Pursuant to Commission Rule 3.34(b), 16 C.F.R. § 3.34(b)(2010)

1. TO PPG Industries, Inc. c/o Kimberly D. Rancour Hogan Lovells US LLP Columbia Square 555 Thirteenth Street NW Washington, D.C. 20004	2. FROM <p style="text-align: center;">UNITED STATES OF AMERICA FEDERAL TRADE COMMISSION</p>
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This subpoena requires you to produce and permit inspection and copying of designated books, documents (as defined in Rule 3.34(b)), or tangible things, at the date and time specified in Item 5, and at the request of Counsel listed in Item 9, in the proceeding described in Item 6.

3. PLACE OF PRODUCTION Kirkland & Ellis LLP c/o Michael F. Williams 655 Fifteenth Street NW, Suite 1200 Washington, D.C. 20005	4. MATERIAL WILL BE PRODUCED TO Michael F. Williams or designee 5. DATE AND TIME OF PRODUCTION February 13, 2018 at 9:00 a.m.
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6. SUBJECT OF PROCEEDING

In the matter of Tronox/Limited et al., Docket# D09377

7. MATERIAL TO BE PRODUCED

Documents and Materials Responsive to the attached subpoena

8. ADMINISTRATIVE LAW JUDGE The Honorable D. Michael Chappell Federal Trade Commission Washington, D.C. 20580	9. COUNSEL AND PARTY ISSUING SUBPOENA Michael F. Williams Kirkland & Ellis LLP 655 Fifteenth Street NW, Suite 1200 Washington, D.C. 20005
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DATE SIGNED 1/30/2018	SIGNATURE OF COUNSEL ISSUING SUBPOENA 
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GENERAL INSTRUCTIONS

APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena must comply with Commission Rule 3.34(c), 16 C.F.R. § 3.34(c), and in particular must be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed before the Administrative Law Judge and with the Secretary of the Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 9, and upon all other parties prescribed by the Rules of Practice.

TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to counsel listed in Item 9 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from counsel listed in Item 9:

A copy of the Commission's Rules of Practice is available online at <http://bit.ly/FTCsRulesofPractice>. Paper copies are available upon request.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1995.

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RETURN OF SERVICE

I hereby certify that a duplicate original of the within subpoena was duly served: (check the method used)

- in person.*
- by registered mail.*
- by leaving copy at principal office or place of business, to wit:*

FedEx

on the person named herein on:

January 24, 2018

(Month, day, and year)

Emily Merki

(Name of person making service)

Associate

(Official title)

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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of

Tronox Limited,
a corporation,

National Industrialization Company
(TASNEE)
a corporation,

National Titanium Dioxide Company
Limited (Cristal)
a corporation, and

Cristal USA Inc.
a corporation,

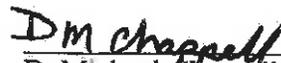
Respondents.

DOCKET NO. 9377

PROTECTIVE ORDER GOVERNING CONFIDENTIAL MATERIAL

Commission Rule 3.31(d) states: "In order to protect the parties and third parties against improper use and disclosure of confidential information, the Administrative Law Judge shall issue a protective order as set forth in the appendix to this section." 16 C.F.R. § 3.31(d). Pursuant to Commission Rule 3.31(d), the protective order set forth in the appendix to that section is attached verbatim as Attachment A and is hereby issued.

ORDERED:



D. Michael Chappell
Chief Administrative Law Judge

Date: December 7, 2017

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ATTACHMENT A

For the purpose of protecting the interests of the parties and third parties in the above-captioned matter against improper use and disclosure of confidential information submitted or produced in connection with this matter:

IT IS HEREBY ORDERED THAT this Protective Order Governing Confidential Material ("Protective Order") shall govern the handling of all Discovery Material, as hereafter defined.

1. As used in this Order, "confidential material" shall refer to any document or portion thereof that contains privileged, competitively sensitive information, or sensitive personal information. "Sensitive personal information" shall refer to, but shall not be limited to, an individual's Social Security number, taxpayer identification number, financial account number, credit card or debit card number, driver's license number, state-issued identification number, passport number, date of birth (other than year), and any sensitive health information identifiable by individual, such as an individual's medical records. "Document" shall refer to any discoverable writing, recording, transcript of oral testimony, or electronically stored information in the possession of a party or a third party. "Commission" shall refer to the Federal Trade Commission ("FTC"), or any of its employees, agents, attorneys, and all other persons acting on its behalf, excluding persons retained as consultants or experts for purposes of this proceeding.
2. Any document or portion thereof submitted by a respondent or a third party during a Federal Trade Commission investigation or during the course of this proceeding that is entitled to confidentiality under the Federal Trade Commission Act, or any regulation, interpretation, or precedent concerning documents in the possession of the Commission, as well as any information taken from any portion of such document, shall be treated as confidential material for purposes of this Order. The identity of a third party submitting such confidential material shall also be treated as confidential material for the purposes of this Order where the submitter has requested such confidential treatment.
3. The parties and any third parties, in complying with informal discovery requests, disclosure requirements, or discovery demands in this proceeding may designate any responsive document or portion thereof as confidential material, including documents obtained by them from third parties pursuant to discovery or as otherwise obtained.
4. The parties, in conducting discovery from third parties, shall provide to each third party a copy of this Order so as to inform each such third party of his, her, or its rights herein.
5. A designation of confidentiality shall constitute a representation in good faith and after careful determination that the material is not reasonably believed to be already in the public domain and that counsel believes the material so designated constitutes confidential material as defined in Paragraph 1 of this Order.

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6. Material may be designated as confidential by placing on or affixing to the document containing such material (in such manner as will not interfere with the legibility thereof), or if an entire folder or box of documents is confidential by placing or affixing to that folder or box, the designation "CONFIDENTIAL – FTC Docket No. 9377" or any other appropriate notice that identifies this proceeding, together with an indication of the portion or portions of the document considered to be confidential material. Confidential information contained in electronic documents may also be designated as confidential by placing the designation "CONFIDENTIAL – FTC Docket No. 9377" or any other appropriate notice that identifies this proceeding, on the face of the CD or DVD or other medium on which the document is produced. Masked or otherwise redacted copies of documents may be produced where the portions deleted contain privileged matter, provided that the copy produced shall indicate at the appropriate point that portions have been deleted and the reasons therefor.

7. Confidential material shall be disclosed only to: (a) the Administrative Law Judge presiding over this proceeding, personnel assisting the Administrative Law Judge, the Commission and its employees, and personnel retained by the Commission as experts or consultants for this proceeding; (b) judges and other court personnel of any court having jurisdiction over any appellate proceedings involving this matter; (c) outside counsel of record for any respondent, their associated attorneys and other employees of their law firm(s), provided they are not employees of a respondent; (d) anyone retained to assist outside counsel in the preparation or hearing of this proceeding including consultants, provided they are not affiliated in any way with a respondent and have signed an agreement to abide by the terms of the protective order; and (e) any witness or deponent who may have authored or received the information in question.

8. Disclosure of confidential material to any person described in Paragraph 7 of this Order shall be only for the purposes of the preparation and hearing of this proceeding, or any appeal therefrom, and for no other purpose whatsoever, provided, however, that the Commission may, subject to taking appropriate steps to preserve the confidentiality of such material, use or disclose confidential material as provided by its Rules of Practice; sections 6(f) and 21 of the Federal Trade Commission Act, or any other legal obligation imposed upon the Commission.

9. In the event that any confidential material is contained in any pleading, motion, exhibit or other paper filed or to be filed with the Secretary of the Commission, the Secretary shall be so informed by the Party filing such papers, and such papers shall be filed *in camera*. To the extent that such material was originally submitted by a third party, the party including the materials in its papers shall immediately notify the submitter of such inclusion. Confidential material contained in the papers shall continue to have *in camera* treatment until further order of the Administrative Law Judge, provided, however, that such papers may be furnished to persons or entities who may receive confidential material pursuant to Paragraphs 7 or 8. Upon or after filing any paper containing confidential material, the filing party shall file on the public record a duplicate copy of the paper that does not reveal confidential material. Further, if the protection for any such material expires, a party may file on the public record a duplicate copy which also contains the formerly protected material.

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10. If counsel plans to introduce into evidence at the hearing any document or transcript containing confidential material produced by another party or by a third party, they shall provide advance notice to the other party or third party for purposes of allowing that party to seek an order that the document or transcript be granted *in camera* treatment. If that party wishes *in camera* treatment for the document or transcript, the party shall file an appropriate motion with the Administrative Law Judge within 5 days after it receives such notice. Except where such an order is granted, all documents and transcripts shall be part of the public record. Where *in camera* treatment is granted, a duplicate copy of such document or transcript with the confidential material deleted therefrom may be placed on the public record.

11. If any party receives a discovery request in any investigation or in any other proceeding or matter that may require the disclosure of confidential material submitted by another party or third party, the recipient of the discovery request shall promptly notify the submitter of receipt of such request. Unless a shorter time is mandated by an order of a court, such notification shall be in writing and be received by the submitter at least 10 business days before production, and shall include a copy of this Protective Order and a cover letter that will apprise the submitter of its rights hereunder. Nothing herein shall be construed as requiring the recipient of the discovery request or anyone else covered by this Order to challenge or appeal any order requiring production of confidential material, to subject itself to any penalties for non-compliance with any such order, or to seek any relief from the Administrative Law Judge or the Commission. The recipient shall not oppose the submitter's efforts to challenge the disclosure of confidential material. In addition, nothing herein shall limit the applicability of Rule 4.11(e) of the Commission's Rules of Practice, 16 CFR 4.11(e), to discovery requests in another proceeding that are directed to the Commission.

12. At the time that any consultant or other person retained to assist counsel in the preparation of this action concludes participation in the action, such person shall return to counsel all copies of documents or portions thereof designated confidential that are in the possession of such person, together with all notes, memoranda or other papers containing confidential information. At the conclusion of this proceeding, including the exhaustion of judicial review, the parties shall return documents obtained in this action to their submitters, provided, however, that the Commission's obligation to return documents shall be governed by the provisions of Rule 4.12 of the Rules of Practice, 16 CFR 4.12.

13. The provisions of this Protective Order, insofar as they restrict the communication and use of confidential discovery material, shall, without written permission of the submitter or further order of the Commission, continue to be binding after the conclusion of this proceeding.

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UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of)
Tronox Limited)
a corporation,)
)
National Industrialization Company)
(TASNEE))
a corporation,)
)
National Titanium Dioxide Company) Docket No. 9377
Limited (Cristal))
a corporation,)
)
And)
)
Cristal USA Inc.)
a corporation.)
)
)

**RESPONDENT TRONOX LIMITED'S ATTACHMENT TO SUBPOENA *DUCES
TECUM* ISSUED TO PPG INDUSTRIES, INC.**

Pursuant to the Federal Trade Commission's ("Commission") Rules of Practice ("FTC Rules"), 16 C.F.R. § 3.34, Respondent Tronox Limited ("Tronox"), by and through its attorneys, hereby requests that PPG Industries, Inc. ("PPG") produce all documents within its possession, custody, or control responsive to the following requests:

REQUESTS

1. Produce all documents submitted to the Commission in the course of the Commission's investigation of the Proposed Acquisition.
2. Produce all documents relating to any declarations submitted to the Commission in the course of the Commission's investigation, or in the course of this litigation, including drafts of those declarations.
3. Produce all communications between You and the Commission related to Tronox, Cristal, the Proposed Acquisition, or TiO2.

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4. Produce all documents submitted to any government authority in any country related to the Proposed Acquisition, including documents submitted to the European Commission related to the Proposed Acquisition.
5. Produce all communications between You and any government authority in any country related to the Proposed Acquisition, including any communications with the European Commission related to the Proposed Acquisition.
6. Produce all documents related to the Proposed Acquisition.
7. Produce all documents related to the TiO₂ industry submitted to the Commission or the Department of Justice in the course of any other governmental antitrust investigation.
8. Produce all documents related to any TiO₂ antitrust or price-fixing litigation, including *Valspar Corp. v. E. I. du Pont de Nemours & Co.*, Docket Nos. 16-1345 (3d Cir.) and 14-cv-00527 (D. Del.) and *In re Titanium Dioxide Antitrust Litig.*, Docket No. RDB-10-0318 (D. Md.).
9. Produce documents sufficient to show Your purchases of TiO₂ by month including: the producer of the TiO₂, the location where the TiO₂ was manufactured, the grade, whether the TiO₂ was manufactured by the chloride process or the sulfate process, whether the TiO₂ has a rutile crystal structure or anatase crystal structure, the location where the TiO₂ was delivered to You, the volume of TiO₂ purchased, the price You paid net of any rebates or discounts.
10. Produce documents sufficient to show: (a) each product You manufacture that includes TiO₂; (b) the location(s) where each product is manufactured; (c) the TiO₂ grade, TiO₂ manufacturer, and TiO₂ manufacturing process (i.e., chloride or sulfate) You have qualified to be used to manufacture in each of Your products.
11. Produce all agreements and contracts for the purchase of TiO₂, including TiO₂ grade specifications, volume, and delivery period, as well as length of the contact term.
12. Produce all documents related to TiO₂ price, demand, or output projections.
13. Produce documents sufficient to show the extent to which supply or demand outside of North America influences supply or demand of TiO₂ in North America.
14. Produce documents sufficient to show the extent to which price outside of North America influences price of TiO₂ in North America.
15. Produce documents sufficient to show the extent to which supply and demand of sulfate TiO₂ influences supply and demand of TiO₂ in North America.
16. Produce documents sufficient to the extent to which price of sulfate TiO₂ influences price of chloride TiO₂.

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17. Produce all documents related to replacing or considering the replacement of any volume of chloride TiO₂ with sulfate TiO₂, or related to replacing or considering the replacement of any volume of sulfate TiO₂ with chloride TiO₂.
18. Produce all documents related to the qualification of any grade of chloride or sulfate TiO₂, including documents sufficient to show the cost of qualifying a TiO₂ grade, the time for qualifying a TiO₂ grade, any other factors considered in qualifying a TiO₂ grade, the number of full time employees or equivalents working on each qualification, and information related to all currently qualified TiO₂ grades, including both chloride and sulfate TiO₂ grades.
19. Produce all documents related to replacing or considering the replacement of any volume of anatase TiO₂ with rutile TiO₂, or related to replacing or considering the replacement of any volume of anatase TiO₂ with rutile TiO₂.
20. Produce all documents related to TiO₂ produced by Chinese producers.
21. Produce all documents sufficient to show Your use or considered use of TiO₂ manufactured by a Chinese producer, including documents related to replacing or considering the replacement of any volume of TiO₂ You purchased with TiO₂ produced by a Chinese producer.
22. Produce all documents related to Your communications with any TiO₂ manufacturer or supplier concerning TiO₂ prices or supply, including but not limited to “meet or release” demands and negotiations.

DEFINITIONS

1. The terms “FTC”, “Commission” means the Federal Trade Commission and its employees, Commissioners, attorneys, accountants, economists, staff, consultants, experts, agents, and representatives.
2. The term “Cristal” means The National Industrialization Company, The National Titanium Dioxide Company Limited, and Cristal USA Inc., their domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships, and joint ventures, and all directors, officers, employees, agents, and representatives of the foregoing.
3. The term “Respondent” or “Tronox” means Tronox Limited, its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships, and joint ventures, and all directors, officers, employees, agents, and representatives of the foregoing.
4. The term “You” or “Yours” refers to PPG Industries, Inc., its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships, and joint ventures, and all directors, officers, employees, agents, and representatives of the foregoing.
5. The terms “Subsidiary,” “Affiliate,” and “Joint Venture” refer to any person in which there is partial (25% or more) or total ownership or control between a person and any other person.

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6. The term “this litigation” means the administrative proceeding in front of the Honorable D. Michael Chappell, Chief Administrative Law Judge, at the Federal Trade Commission (In the Matter of Tronox Limited, et al., Docket No. 9377).
7. The term “Transaction” or “Proposed Acquisition” means the acquisition of Cristal’s titanium dioxide business by Tronox pursuant to the Transaction Agreement between the National Titanium Dioxide Company Limited, Tronox Limited, and Cristal Inorganic Chemicals Netherlands Coöperatief W.A., dated February 21, 2017.
8. The term “Document” is used herein in its customary and broadest sense under FTC Rules § 3.34(a), and includes, without limitation: the original or a copy as well as drafts and all versions of all writings and recordings; material that is stored, compiled or organized by means of any electronic, magnetic, optical or mechanical device, such as by handwriting, typewriting, printing, photostating, or filming; agreements, analytical data, art work, audio recordings, books, bulletins, calendars, computer tapes, computer storage media, contracts, correspondence, diagrams, diaries, drawings, email, facsimiles, forms, interoffice communications, keypunch cards, letters, memoranda, messages, notes, papers, photographs, pictures, pleadings, proposals, reports, studies, surveys, sketches, telexes, telegrams, telecopies, telegraphs, telex communications, video recordings, and worksheets; and any writing or recording prepared on or with any other physical objects.
9. “Identify” or “Identity” means: (a) when used in reference to a natural person, state his or her full name, address, and telephone number; (b) when used in reference to a corporation, state its full corporate name, any names under which it does business, and its place of incorporation; (c) when used in reference to a partnership, state its full name, any name under which it does business, the place or any certificate of partnership, state its full name, any name under which it does business, the place or any certificate of partnership (or other similar document) filing, and the address of its principal place of business; (d) when used in reference to a document, state the document, litigation number or Bates number, if applicable, otherwise the number of pages and the nature of the Document (e.g., letter, memorandum, etc.), its title, its date, the name or names of its authors or recipients, and its present location or custodian; (e) when used in reference to a communication, if any part of the communication was written, Identify the document or documents which refer to, relate to, or evidence the communication, and, to the extent that the communication was non-written, Identify the Persons, participating in or witnessing the communication, and state the date and substance of the communication.
10. The term “relating to” means relating to, reflecting, concerning, referring to, constituting, embodying, connected to, in connection with, comprising, regarding, evidencing, describing, identifying, stating, analyzing, containing information concerning, and/or in any way pertaining to the subject matter of this Action. The term “including” means including, but not limited to.
11. The term “Second Request” means the FTC’s Request for Additional Information and Documentary Evidence issued to Tronox on April 13, 2017, Transaction Identification Numbers 2017-0896 and 2017-0897.

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12. "Investigation" refers to the investigation, including the issuance of the Second Request, that the FTC conducted leading up to this action.
13. The term "TiO₂" means titanium dioxide (regardless of the process used to produce TiO₂).
14. Any other term used in this Document Request that is not defined has the meaning that producers, sellers, distributors, or purchasers of TiO₂ use in the ordinary course of business.
15. For purposes of construing the scope of these Requests:
 - A. The use of the singular form of any word includes the plural and vice versa.
 - B. The word "including" shall be construed to introduce a non-exhaustive list, and and to mean "including, but not limited to."
 - C. The terms "all," "any," and "each" shall each be construed as addressing any and all.
 - D. The connectives "and" or "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
 - E. The scope of these Requests shall not be construed narrowly based on any inferences drawn from the phrasing of any other Request.
 - F. Any reference to communications "between" two parties shall include any and all communications involving both parties whether or not additional parties are involved and whether or not both parties are recipients of the communication.
 - G. The masculine form of a word should be read to include the feminine, and the feminine form of a word should be read to include the masculine. And any pronouns shall be construed to refer to the masculine, feminine, or neuter gender as is most appropriate in each case.

INSTRUCTIONS

1. You are to divulge all information and Documents which are in Your possession, custody, or control or which can be ascertained upon reasonable investigation of areas within Your control. The knowledge of Your attorney is deemed to be Your knowledge so that, apart from privileged matters, if Your attorney has knowledge of the information sought to be elicited herein said knowledge must be incorporated into these answers even if such information is unknown to You individually.
2. Documents include those which are in Your possession, or under Your actual or constructive custody, or control, whether or not such documents were received from or

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disseminated to any other person or entity including, but not limited to, attorneys, accountants, consultants, employees, and third parties.

3. If You do not have possession, custody, or control of any Documents described in any one or more of the following Requests, a written statement that You do not have possession, custody, or control of any such Documents and the name and address of the Person who does have possession, custody, or control of such Documents is a sufficient response to the Request. However, production of such Documents shall be required if You or any of Your agents, employees, servants, or representatives have possession, custody, or control of the same. Unless the Request specifically directs production of the originals of the Documents, delivery of an accurate, legible and complete photocopy of the Documents to the requesting attorney is a sufficient response to the Request.
4. The obligation to produce the documents sought by these Requests is of a continuing nature pursuant to FTC Rules § 3.31(e). If at any time after responding to these Requests You should acquire actual or constructive possession, custody, or control of any additional documents within the scope of a particular Request, You must produce such documents to counsel for Tronox in a timely manner.
5. All documents should be produced in an orderly manner (and with appropriate markings or other identification) so that Tronox will be able to Identify the source of the document, the file in which it was maintained, and the Person to whom the file belonged.
6. Pursuant to FTC Rules § 3.37(c)(i), Documents shall be organized and designated to correspond to the categories in the Request or produced as they are kept in the usual course of business.
7. All documents are to be produced in electronic form. All documents except spreadsheet and presentation files (such as Excel and PowerPoint files) should be produced in single page Tagged Image File Format (TIFF), together with any related field-delimited loadfiles (e.g., Concordance DAT, CSV, OPT, LOG). The following fields should be included in the loadfiles: begin Bates number; end Bates number; begin Attachment Bates number; end Attachment Bates number; custodian; document date (for non-email messages and those collected in hard copy); date sent (for email messages); date modified (for non-email messages); to (for email messages); from (for email messages); cc (for email messages); bcc (for email messages); subject (for email messages); filename (for electronically collected files); filepathway (for electronically collected files); text (extracted from electronically collected files, including email, and OCR'd for documents collected in hard copy); and confidentiality designation. All images should be endorsed with a unique Bates number as well as appropriate confidentiality designation. The Bates number should consist of a prefix which can be used to identify the producing party and a page number. These endorsements should not obstruct any portion of the text in the image. All spreadsheet and presentation files, such as Excel and PowerPoint files, should be provided in native format with a link to the native file in the loadfile.
8. All documents responsive to this document request, regardless of format or form and regardless of whether submitted in hard copy or electronic format:

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- A. Shall be produced in complete form, un-redacted unless privileged, and in the order in which they appear in Your files.
 - B. Shall be marked on each page with identification and consecutive document control numbers;
 - C. If written in a language other than English, shall be translated into English, with the English translation attached to the foreign language document;
 - D. Shall be produced in color where necessary to interpret the document (if the coloring of any document communicates any substantive information, or if black-and-white photocopying or conversion to TIFF format of any document (e.g., a chart or graph) makes any substantive information contained in the document unintelligible, PPG must submit the original document, a like-colored photocopy, or a JPEG format image;
 - E. Shall be accompanied by an index that identifies: (i) the name of each person from whom responsive documents are submitted; and (ii) the corresponding consecutive document control number(s) used to identify that person's documents, and if submitted in paper form, the box number containing such documents. Tronox's representative will provide a sample index upon request.
9. If You object to any part of a Request and refuse to answer, then You shall state Your complete objection and all bases therefore, and also shall provide a complete answer to the remaining portion of the Request.
10. If You object to a Request as vague or ambiguous in language, then You shall state Your complete objection and all bases therefore, including a specific statement identifying the particular words, terms, or phrases that You assert render the Request objectionable.
11. If You object to a Request as overly broad or unduly burdensome in scope, in time period, or for any other reason, then You shall state Your complete objection and all bases therefore, and also shall respond to the Request as narrowed to the least extent necessary to render it not objectionable in Your opinion. You shall include in Your response a specific statement as to why You believe the scope or time period is inappropriate and the extent to which the scope or time period has been narrowed in Your response.
12. If any requested Document or thing is no longer in Your possession, custody, or control, state whether it was lost, destroyed or otherwise disposed of and describe the circumstances of such disposition, including: (a) an identification of the Document, thing, or information, including date, title, author, and number of pages; (b) a brief description of its nature (e.g., letter, memorandum, chart, prototype) and subject matter; (c) an identification of all Persons who received copies of it; (d) a statement of the reasons for and circumstances of its destruction; (e) an identification of each Person having any knowledge of its destruction; and (f) an identification of the Person(s) responsible for its destruction.

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13. If no Documents are responsive to a particular Request, then that fact shall be specifically indicated in Your response.
14. If, after exercising due diligence to make inquiries and secure necessary information, You cannot answer a Request fully and completely, then You shall so state in Your responses. Additionally, You shall provide the following information in its response to each such Request: (a) an answer to the discovery request to the fullest extent possible; (b) a statement specifying the portion of the discovery request that You claim You are unable to answer fully and completely; (c) a statement of the facts upon which You rely to support Your contention that You are unable to answer fully and completely; and (d) a statement specifying what knowledge, information, and beliefs You have concerning the unanswered portion of the discovery request.
15. When any original, draft, copy, or reproduction of any Document responsive to a Request is or has been revised to include, exclude, or alter any portion, addendum, notation, alteration, emendation, change, or amendment, You shall produce each such original draft, copy, or reproduction as well as all subsequent versions and revisions.
16. You shall produce all Documents in their entirety, including attachments, enclosures, cover letters, memoranda, and appendices, without abbreviation or redaction.
17. If You contend that any requested Document is privileged and therefore not subject to production, you shall Identify the Document in Your written response by describing the Document sufficiently to allow Tronox to move the court to compel its disclosure. The description should include, but is not limited to, the following information:
 - A. The name of each Person who prepared the Document;
 - B. The name of each Person to whom the Document was addressed and/or distributed;
 - C. The date of the Document;
 - D. A description of the general nature of the Document;
 - E. The specific privilege(s) which You contend applies to the Document;
 - F. The ground upon which You rely to establish the privilege as to the Document.
18. If You contend any portion of any requested Document is privileged and therefore not subject to production, Identify and produce any non-privileged portions for each such Document.
19. If certain requests are duplicative of previous requests to which documents have already been produced, You need not reproduce such documents, but is requested to notify Tronox that such documents are among those already produced.

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20. Unless otherwise stated, construe each request independently and without reference to any other purpose of limitation.
21. Your response to these document requests shall be delivered to the attention of Michael F. Williams, P.C., between 8:30 a.m. and 5:00 p.m. on any business day to Kirkland & Ellis LLP, 655 Fifteenth Street, N.W., Washington, D.C. 20005. For courier or other delivery, please contact Michael F. Williams, P.C. at (202) 879-5123 or mwilliams@kirkland.com.

January 30, 2018

Respectfully submitted,

/s/ Michael F. Williams, P.C.

Michael F. Williams, P.C.
Matthew J. Reilly, P.C.
KIRKLAND & ELLIS LLP
655 Fifteenth Street, N.W.
Suite 1200
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(202) 879-5000
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michael.williams@kirkland.com
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300 North LaSalle
Chicago, IL 60654
(312) 862-2428
(312) 862-2200 (facsimile)
david.zott@kirkland.com

ATTORNEYS FOR TRONOX LIMITED

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 30, 2018, I caused a true and correct copy of the foregoing Subpoena *Duces Tecum* to be served via e-mail upon the following:

Chuck Loughlin (cloughlin@ftc.gov)
Dominic Vote (dvote@ftc.gov)
Federal Trade Commission
600 Pennsylvania Avenue NW
Washington, DC 20580

Seth J. Wiener (Seth.Wiener@apks.com)
James L. Cooper (James.Cooper@apks.com)
Peter J. Levitas (Peter.Levitas@apks.com)
Ryan Z. Watts (Ryan.Watts@apks.com)
Carlamaria Mata (Carlamaria.mata@apks.com)
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Avenue NW
Washington, DC 20001

/s/ Michael F. Williams, P.C.
Michael F. Williams, P.C.

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EXHIBIT 2



SUBPOENA AD TESTIFICANDUM DEPOSITION

Provided by the Secretary of the Federal Trade Commission, and
Issued Pursuant to Rule 3.34(a), 16 C.F.R. § 3.34(a) (2010)

<p>1. TO</p> <p>PPG Industries, Inc. c/o Kimberly D. Rancour Hogan Lovells US LLP Columbia Square 555 Thirteenth Street, NW Washington, DC 20004</p>	<p>2. FROM</p> <p style="text-align: center;">UNITED STATES OF AMERICA FEDERAL TRADE COMMISSION</p>
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This subpoena requires you to appear and give testimony at the taking of a deposition, at the date and time specified in Item 5, and at the request of Counsel listed in Item 8, in the proceeding described in Item 6.

<p>3. PLACE OF DEPOSITION</p> <p>Kirkland & Ellis LLP 655 Fifteenth Street NW, Suite 1200 Washington, D.C. 20005</p> <p>or as such other place as may be agreed</p>	<p>4. YOUR APPEARANCE WILL BE BEFORE</p> <p>Michael F. Williams or designee</p> <hr/> <p>5. DATE AND TIME OF DEPOSITION</p> <p>February 23, 2018 at 9:00 a.m., or as such other date as may be agreed</p>
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6. SUBJECT OF PROCEEDING

In the matter of Tronox Limited et al; Docket# D09377

<p>7. ADMINISTRATIVE LAW JUDGE</p> <p>The Honorable D. Michael Chappell</p> <p>Federal Trade Commission Washington, D.C. 20580</p>	<p>8. COUNSEL AND PARTY ISSUING SUBPOENA</p> <p>Michael F. Williams Kirkland & Ellis LLP 655 Fifteenth Street NW, Suite 1200 Washington, D.C. 20005</p>
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<p>DATE SIGNED</p> <p style="font-size: 1.5em;">1/30/2018</p>	<p>SIGNATURE OF COUNSEL ISSUING SUBPOENA.</p> <p style="font-size: 1.5em;"><i>Michael F. Williams</i></p>
---------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------

GENERAL INSTRUCTIONS

APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena must comply with Commission Rule 3.34(c), 16 C.F.R. § 3.34(c), and in particular must be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed before the Administrative Law Judge and with the Secretary of the Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 8, and upon all other parties prescribed by the Rules of Practice.

TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to Counsel listed in Item 8 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from Counsel listed in Item 8.

A copy of the Commission's Rules of Practice is available online at <http://bit.ly/FTCsRulesofPractice>. Paper copies are available upon request.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1995.

RETURN OF SERVICE

I hereby certify that a duplicate original of the within subpoena was duly served: (check the method used)

- in person.*
- by registered mail.*
- by leaving copy at principal office or place of business, to wit:*

FedEx

on the person named herein on:

January 30, 2018

(Month, day, and year)

Emily Merki

(Name of person making service)

Associate

(Official title)

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**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

Tronox Limited,
a corporation,

National Industrialization Company
(TASNEE)
a corporation,

National Titanium Dioxide Company
Limited (Cristal)
a corporation, and

Cristal USA Inc.
a corporation,

Respondents.

DOCKET NO. 9377

PROTECTIVE ORDER GOVERNING CONFIDENTIAL MATERIAL

Commission Rule 3.31(d) states: "In order to protect the parties and third parties against improper use and disclosure of confidential information, the Administrative Law Judge shall issue a protective order as set forth in the appendix to this section." 16 C.F.R. § 3.31(d). Pursuant to Commission Rule 3.31(d), the protective order set forth in the appendix to that section is attached verbatim as Attachment A and is hereby issued.

ORDERED:



D. Michael Chappell
Chief Administrative Law Judge

Date: December 7, 2017

ATTACHMENT A

For the purpose of protecting the interests of the parties and third parties in the above-captioned matter against improper use and disclosure of confidential information submitted or produced in connection with this matter:

IT IS HEREBY ORDERED THAT this Protective Order Governing Confidential Material ("Protective Order") shall govern the handling of all Discovery Material, as hereafter defined.

1. As used in this Order, "confidential material" shall refer to any document or portion thereof that contains privileged, competitively sensitive information, or sensitive personal information. "Sensitive personal information" shall refer to, but shall not be limited to, an individual's Social Security number, taxpayer identification number, financial account number, credit card or debit card number, driver's license number, state-issued identification number, passport number, date of birth (other than year), and any sensitive health information identifiable by individual, such as an individual's medical records. "Document" shall refer to any discoverable writing, recording, transcript of oral testimony, or electronically stored information in the possession of a party or a third party. "Commission" shall refer to the Federal Trade Commission ("FTC"), or any of its employees, agents, attorneys, and all other persons acting on its behalf, excluding persons retained as consultants or experts for purposes of this proceeding.
2. Any document or portion thereof submitted by a respondent or a third party during a Federal Trade Commission investigation or during the course of this proceeding that is entitled to confidentiality under the Federal Trade Commission Act, or any regulation, interpretation, or precedent concerning documents in the possession of the Commission, as well as any information taken from any portion of such document, shall be treated as confidential material for purposes of this Order. The identity of a third party submitting such confidential material shall also be treated as confidential material for the purposes of this Order where the submitter has requested such confidential treatment.
3. The parties and any third parties, in complying with informal discovery requests, disclosure requirements, or discovery demands in this proceeding may designate any responsive document or portion thereof as confidential material, including documents obtained by them from third parties pursuant to discovery or as otherwise obtained.
4. The parties, in conducting discovery from third parties, shall provide to each third party a copy of this Order so as to inform each such third party of his, her, or its rights herein.
5. A designation of confidentiality shall constitute a representation in good faith and after careful determination that the material is not reasonably believed to be already in the public domain and that counsel believes the material so designated constitutes confidential material as defined in Paragraph 1 of this Order.

6. Material may be designated as confidential by placing on or affixing to the document containing such material (in such manner as will not interfere with the legibility thereof), or if an entire folder or box of documents is confidential by placing or affixing to that folder or box, the designation "CONFIDENTIAL – FTC Docket No. 9377" or any other appropriate notice that identifies this proceeding, together with an indication of the portion or portions of the document considered to be confidential material. Confidential information contained in electronic documents may also be designated as confidential by placing the designation "CONFIDENTIAL – FTC Docket No. 9377" or any other appropriate notice that identifies this proceeding, on the face of the CD or DVD or other medium on which the document is produced. Masked or otherwise redacted copies of documents may be produced where the portions deleted contain privileged matter, provided that the copy produced shall indicate at the appropriate point that portions have been deleted and the reasons therefor.

7. Confidential material shall be disclosed only to: (a) the Administrative Law Judge presiding over this proceeding, personnel assisting the Administrative Law Judge, the Commission and its employees, and personnel retained by the Commission as experts or consultants for this proceeding; (b) judges and other court personnel of any court having jurisdiction over any appellate proceedings involving this matter; (c) outside counsel of record for any respondent, their associated attorneys and other employees of their law firm(s), provided they are not employees of a respondent; (d) anyone retained to assist outside counsel in the preparation or hearing of this proceeding including consultants, provided they are not affiliated in any way with a respondent and have signed an agreement to abide by the terms of the protective order; and (e) any witness or deponent who may have authored or received the information in question.

8. Disclosure of confidential material to any person described in Paragraph 7 of this Order shall be only for the purposes of the preparation and hearing of this proceeding, or any appeal therefrom, and for no other purpose whatsoever, provided, however, that the Commission may, subject to taking appropriate steps to preserve the confidentiality of such material, use or disclose confidential material as provided by its Rules of Practice; sections 6(f) and 21 of the Federal Trade Commission Act, or any other legal obligation imposed upon the Commission.

9. In the event that any confidential material is contained in any pleading, motion, exhibit or other paper filed or to be filed with the Secretary of the Commission, the Secretary shall be so informed by the Party filing such papers, and such papers shall be filed *in camera*. To the extent that such material was originally submitted by a third party, the party including the materials in its papers shall immediately notify the submitter of such inclusion. Confidential material contained in the papers shall continue to have *in camera* treatment until further order of the Administrative Law Judge, provided, however, that such papers may be furnished to persons or entities who may receive confidential material pursuant to Paragraphs 7 or 8. Upon or after filing any paper containing confidential material, the filing party shall file on the public record a duplicate copy of the paper that does not reveal confidential material. Further, if the protection for any such material expires, a party may file on the public record a duplicate copy which also contains the formerly protected material.

10. If counsel plans to introduce into evidence at the hearing any document or transcript containing confidential material produced by another party or by a third party, they shall provide advance notice to the other party or third party for purposes of allowing that party to seek an order that the document or transcript be granted *in camera* treatment. If that party wishes *in camera* treatment for the document or transcript, the party shall file an appropriate motion with the Administrative Law Judge within 5 days after it receives such notice. Except where such an order is granted, all documents and transcripts shall be part of the public record. Where *in camera* treatment is granted, a duplicate copy of such document or transcript with the confidential material deleted therefrom may be placed on the public record.

11. If any party receives a discovery request in any investigation or in any other proceeding or matter that may require the disclosure of confidential material submitted by another party or third party, the recipient of the discovery request shall promptly notify the submitter of receipt of such request. Unless a shorter time is mandated by an order of a court, such notification shall be in writing and be received by the submitter at least 10 business days before production, and shall include a copy of this Protective Order and a cover letter that will apprise the submitter of its rights hereunder. Nothing herein shall be construed as requiring the recipient of the discovery request or anyone else covered by this Order to challenge or appeal any order requiring production of confidential material, to subject itself to any penalties for non-compliance with any such order, or to seek any relief from the Administrative Law Judge or the Commission. The recipient shall not oppose the submitter's efforts to challenge the disclosure of confidential material. In addition, nothing herein shall limit the applicability of Rule 4.11(e) of the Commission's Rules of Practice, 16 CFR 4.11(e), to discovery requests in another proceeding that are directed to the Commission.

12. At the time that any consultant or other person retained to assist counsel in the preparation of this action concludes participation in the action, such person shall return to counsel all copies of documents or portions thereof designated confidential that are in the possession of such person, together with all notes, memoranda or other papers containing confidential information. At the conclusion of this proceeding, including the exhaustion of judicial review, the parties shall return documents obtained in this action to their submitters, provided, however, that the Commission's obligation to return documents shall be governed by the provisions of Rule 4.12 of the Rules of Practice, 16 CFR 4.12.

13. The provisions of this Protective Order, insofar as they restrict the communication and use of confidential discovery material, shall, without written permission of the submitter or further order of the Commission, continue to be binding after the conclusion of this proceeding.

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of)
Tronox Limited)
a corporation,)
)
National Industrialization Company)
(TASNEE))
a corporation,)
)
National Titanium Dioxide Company) Docket No. 9377
Limited (Cristal))
a corporation,)
)
And)
)
Cristal USA Inc.)
a corporation.)
)
_____)

**ATTACHMENT TO SUBPOENA *AD TESTIFICANDUM* FOR DEPOSITION TO
PPG INDUSTRIES, INC.**

Pursuant to the Federal Trade Commission’s (“Commission”) Rule of Practice (“FTC Rule”) 3.33(c), 16 C.F.R. § 3.33(c), Respondent Tronox Limited (“Tronox”) requests the deposition upon oral examination of PPG Industries, Inc. (“PPG”) on the matters identified in this attachment. PPG shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf on matters known or reasonably available to PPG. *See* 16 C.F.R. § 3.33(c). PPG may set forth, for each person designated, the matters on which he or she will testify.

MATTERS FOR EXAMINATION

1. Documents and information submitted by You to the Commission in the course of the Commission’s investigation of the Proposed Acquisition, including communications between You and the Commission.
2. Documents and information submitted by You to any governmental authority in any country related to the Proposed Acquisition, including communications between You and the European Commission.

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3. Your understanding of global supply and demand of TiO₂, including how supply or demand outside of North America influences supply or demand of TiO₂ in North America.
4. Your understanding of regional TiO₂ pricing trends, including but not limited to the interaction between pricing in North America and the rest of the world.
5. Your understanding of how supply and demand of TiO₂ from the sulfate process influences supply and demand of TiO₂ from the chloride process.
6. Your understanding of how price of TiO₂ from the sulfate process influences price of TiO₂ from the chloride process.
7. Your use of sulfate TiO₂, including demand for specific grades of TiO₂ manufactured using sulfate processes.
8. Any instance where You substituted or considered substituting or replacing sulfate TiO₂ for chloride TiO₂ (or vice versa), including, but not limited to (a) switching some (or all) of your purchases from chloride TiO₂ to sulfate TiO₂ (or vice versa); (b) qualifying sulfate TiO₂ grades for uses where chloride TiO₂ is currently used (or vice versa); or (c) referring to prices of sulfate TiO₂ when negotiating prices for chloride TiO₂ (or vice versa).
9. Information about any instance where you replaced any volume of anatase TiO₂ with rutile TiO₂ or any volume of rutile TiO₂ with anatase TiO₂.
10. Your use or considered use of TiO₂ from a Chinese producer, including information related to replacing or considering the replacement of any volume of TiO₂ from a non-Chinese producer with TiO₂ produced by a Chinese producer.
11. Your qualification or attempted qualification of any grade of chloride or sulfate TiO₂, including the cost of qualifying a TiO₂ grade, the time for qualifying a TiO₂ grade, any factors considered in qualifying a TiO₂ grade, the number of full-time employees or equivalents working on each qualification, and information related to all current or past qualified TiO₂ grades, including both chloride and sulfate TiO₂ grades.
12. Your use and ability to use TiO₂ in slurry or dry form, and Your ability to convert dry TiO₂ to slurry form.
13. Actions and strategies You have taken or employed in response to TiO₂ price increase announcements or other attempts by TiO₂ producers to increase TiO₂ prices.
14. Your practices regarding keeping inventory of TiO₂, including but not limited to storage capacity and inventory levels.
15. Your agreements and contracts for the purchase of TiO₂.

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16. Your purchases of TiO₂ for the past five years, including the producer of the TiO₂, the location where the TiO₂ was manufactured, the grade, whether the TiO₂ was manufactured by the chloride process or the sulfate process, whether the TiO₂ has a rutile-crystal structure or anatase-crystal structure, the location where the TiO₂ was delivered to You, the volume of TiO₂ purchased, the price You paid net of any rebates or discounts, including any freight, duty, or other fees paid.
17. Your communications with any TiO₂ manufacturer or supplier concerning TiO₂ prices or supply, including but not limited to “meet or release” demands and negotiations.
18. Factors You consider when deciding whether to purchase TiO₂ from or qualify a grade from a particular supplier.

DEFINITIONS

1. The terms “FTC”, “Commission” means the Federal Trade Commission and its employees, Commissioners, attorneys, accountants, economists, staff, consultants, experts, agents, and representatives.
2. The term “Cristal” means The National Industrialization Company, The National Titanium Dioxide Company Limited, and Cristal USA Inc., their domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships, and joint ventures, and all directors, officers, employees, agents, and representatives of the foregoing.
3. The term “Respondent” or “Tronox” means Tronox Limited, its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships, and joint ventures, and all directors, officers, employees, agents, and representatives of the foregoing.
4. The terms “You” or “Your” means PPG Industries, Inc, its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships, and joint ventures, and all directors, officers, employees, agents, and representatives of the foregoing.
5. The terms “Subsidiary,” “Affiliate,” and “Joint Venture” refer to any person in which there is partial (25% or more) or total ownership or control between a person and any other person.
6. The term “this litigation” means the administrative proceeding in front of the Honorable D. Michael Chappell, Chief Administrative Law Judge, at the Federal Trade Commission (In the Matter of Tronox Limited, et al., Docket No. 9377).
7. The term “Transaction” or “Proposed Acquisition” means the acquisition of Cristal’s titanium dioxide business by Tronox pursuant to the Transaction Agreement between the National Titanium Dioxide Company Limited, Tronox Limited, and Cristal Inorganic Chemicals Netherlands Coöperatief W.A., dated February 21, 2017.

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8. “Communication(s)” or “Communicate” means any form of information, exchange, or attempted exchange, including but not limited to written, oral, or electronic exchanges; exchanges by letter, telephone, facsimile, email, face-to-face conversation, meeting or conference; any exchange whether or not written, taped, or recorded; any exchange without limit to the time, place, or circumstances of its occurrence; and/or any other transmittal of information by any media by any manner.
9. The term “related to” means relating to, reflecting, concerning, referring to, constituting, embodying, connected to, in connection with, comprising, regarding, evidencing, describing, identifying, stating, analyzing, containing information concerning, and/or in any way pertaining to the subject matter of this Action. The term “including” means including, but not limited to.
10. The term “Second Request” means the FTC’s Request for Additional Information and Documentary Evidence issued to Tronox on April 13, 2017, Transaction Identification Numbers 2017-0896 and 2017-0897.
11. “Investigation” refers to the investigation, including the issuance of the Second Request, that the FTC conducted leading up to this action.
12. The term “TiO₂” means titanium dioxide (regardless of the process used to produce TiO₂).
13. Any other term used in these Requests that are not defined has the meaning that producers, sellers, distributions, or purchasers of TiO₂ use in the ordinary course of business.
14. For purposes of construing the scope of these Requests:
 - A. The use of the singular form of any word includes the plural and vice versa.
 - B. The word “including” shall be construed to introduce a non-exhaustive list, and and to mean “including, but not limited to.”
 - C. The terms “all,” “any,” and “each” shall each be construed as addressing any and all.
 - D. The connectives “and” or “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
 - E. The scope of these Requests shall not be construed narrowly based on any inferences drawn from the phrasing of any other Request.
 - F. Any reference to communications “between” two parties shall include any and all communications involving both parties whether or not additional parties are involved and whether or not both parties are recipients of the communication.

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- G. The masculine form of a word should be read to include the feminine, and the feminine form of a word should be read to include the masculine. And any pronouns shall be construed to refer to the masculine, feminine, or neuter gender as is most appropriate in each case.

January 30, 2018

Respectfully submitted,

/s/ Michael F. Williams, P.C.

Michael F. Williams, P.C.
Matthew J. Reilly, P.C.
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(312) 862-2428
(312) 862-2200 (facsimile)
david.zott@kirkland.com

ATTORNEYS FOR TRONOX LIMITED

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 30, 2018, I caused a true and correct copy of the foregoing Subpoena *Ad Testificandum* to be served via e-mail upon the following:

Chuck Loughlin (cloughlin@ftc.gov)
Dominic Vote (dvote@ftc.gov)
Federal Trade Commission
600 Pennsylvania Avenue NW
Washington, DC 20580

Seth J. Wiener (Seth.Wiener@apks.com)
James L. Cooper (James.Cooper@apks.com)
Peter J. Levitas (Peter.Levitas@apks.com)
Ryan Z. Watts (Ryan.Watts@apks.com)
Carlamaria Mata (Carlamaria.mata@apks.com)
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Avenue NW
Washington, DC 20001

/s/ Michael F. Williams, P.C.
Michael F. Williams, P.C.

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EXHIBIT 3

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SUBPOENA DUCES TECUM

Provided by the Secretary of the Federal Trade Commission, and
Issued Pursuant to Commission Rule 3.34(b), 16 C.F.R. § 3.34(b)(2010)

1. TO PPG c/o Robert Brown One PPG Place Pittsburgh, PA 15272	2. FROM UNITED STATES OF AMERICA FEDERAL TRADE COMMISSION
-------------------------------------------------------------------------------	---------------------------------------------------------------------

This subpoena requires you to produce and permit inspection and copying of designated books, documents (as defined in Rule 3.34(b)), or tangible things, at the date and time specified in Item 5, and at the request of Counsel listed in Item 9, in the proceeding described in Item 6.

3. PLACE OF PRODUCTION Kirkland & Ellis LLP c/o Michael Williams 655 Fifteenth St NW Washington, DC 20005	4. MATERIAL WILL BE PRODUCED TO Michael Williams or designee 5. DATE AND TIME OF PRODUCTION Feb. 8, 2018 at 9:00 a.m.
---------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------

6. SUBJECT OF PROCEEDING

Matter Name: Tronox Limited/ Cristal USA
Matter# D09377

7. MATERIAL TO BE PRODUCED

Documents and materials responsive to the Attachment

8. ADMINISTRATIVE LAW JUDGE D. Michael Chappell Federal Trade Commission Washington, D.C. 20580	9. COUNSEL AND PARTY ISSUING SUBPOENA Michael F. Williams or designee Kirkland & Ellis LLP 655 Fifteenth St NW Washington, DC 20005
------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------

DATE SIGNED 1/24/2018	SIGNATURE OF COUNSEL ISSUING SUBPOENA
------------------------------	-----------------------------------------------

GENERAL INSTRUCTIONS

APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena must comply with Commission Rule 3.34(c), 16 C.F.R. § 3.34(c), and in particular must be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed before the Administrative Law Judge and with the Secretary of the Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 9, and upon all other parties prescribed by the Rules of Practice.

TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to counsel listed in Item 9 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from counsel listed in Item 9.

A copy of the Commission's Rules of Practice is available online at <http://bit.ly/FTCsRulesofPractice>. Paper copies are available upon request.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1995.

RETURN OF SERVICE

I hereby certify that a duplicate original of the within subpoena was duly served: (check the method used)

in person.

by registered mail.

by leaving copy at principal office or place of business, to wit:

Fed Ex

on the person named herein on:

1/24/2018

(Month, day, and year)

Zachary Avallone

(Name of person making service)

Associate

(Official title)

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UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of)
Tronox Limited)
a corporation,)
)
National Industrialization Company)
(TASNEE))
a corporation,)
)
National Titanium Dioxide Company) Docket No. 9377
Limited (Cristal))
a corporation,)
)
And)
)
Cristal USA Inc.)
a corporation.)
)
_____)

**RESPONDENT TRONOX LIMITED'S ATTACHMENT TO SUBPOENA *DUCES*
TECUM ISSUED TO PPG INDUSTRIES, INC.**

Pursuant to the Federal Trade Commission's ("Commission") Rules of Practice ("FTC Rules"), 16 C.F.R. § 3.34, Respondent Tronox Limited ("Tronox"), by and through its attorneys, hereby requests that PPG Industries, Inc. ("PPG") produce all documents within its possession, custody, or control responsive to the following requests:

REQUESTS

1. Produce all documents submitted to the Commission in the course of the Commission's investigation of the Proposed Acquisition.
2. Produce all documents relating to any declarations submitted to the Commission in the course of the Commission's investigation, or in the course of this litigation, including drafts of those declarations.
3. Produce all communications between You and the Commission related to Tronox, Cristal, the Proposed Acquisition, or TiO2.

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4. Produce all documents submitted to any government authority in any country related to the Proposed Acquisition, including documents submitted to the European Commission related to the Proposed Acquisition.
5. Produce all communications between You and any government authority in any country related to the Proposed Acquisition, including any communications with the European Commission related to the Proposed Acquisition.
6. Produce all documents related to the Proposed Acquisition.
7. Produce all documents related to the TiO₂ industry submitted to the Commission or the Department of Justice in the course of any other governmental antitrust investigation.
8. Produce all documents related to any TiO₂ antitrust or price-fixing litigation, including *Valspar Corp. v. E. I. du Pont de Nemours & Co.*, Docket Nos. 16-1345 (3d Cir.) and 14-cv-00527 (D. Del.) and *In re Titanium Dioxide Antitrust Litig.*, Docket No. RDB-10-0318 (D. Md.).
9. Produce documents sufficient to show Your purchases of TiO₂ by month including: the producer of the TiO₂, the location where the TiO₂ was manufactured, the grade, whether the TiO₂ was manufactured by the chloride process or the sulfate process, whether the TiO₂ has a rutile crystal structure or anatase crystal structure, the location where the TiO₂ was delivered to You, the volume of TiO₂ purchased, the price You paid net of any rebates or discounts.
10. Produce documents sufficient to show: (a) each product You manufacture that includes TiO₂; (b) the location(s) where each product is manufactured; (c) the TiO₂ grade, TiO₂ manufacturer, and TiO₂ manufacturing process (i.e., chloride or sulfate) You have qualified to be used to manufacture in each of Your products.
11. Produce all agreements and contracts for the purchase of TiO₂, including TiO₂ grade specifications, volume, and delivery period, as well as length of the contact term.
12. Produce all documents related to TiO₂ price, demand, or output projections.
13. Produce documents sufficient to show the extent to which supply or demand outside of North America influences supply or demand of TiO₂ in North America.
14. Produce documents sufficient to show the extent to which price outside of North America influences price of TiO₂ in North America.
15. Produce documents sufficient to show the extent to which supply and demand of sulfate TiO₂ influences supply and demand of TiO₂ in North America.
16. Produce documents sufficient to the extent to which price of sulfate TiO₂ influences price of chloride TiO₂.

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17. Produce all documents related to replacing or considering the replacement of any volume of chloride TiO₂ with sulfate TiO₂, or related to replacing or considering the replacement of any volume of sulfate TiO₂ with chloride TiO₂.
18. Produce all documents related to the qualification of any grade of chloride or sulfate TiO₂, including documents sufficient to show the cost of qualifying a TiO₂ grade, the time for qualifying a TiO₂ grade, any other factors considered in qualifying a TiO₂ grade, and information related to all currently qualified TiO₂ grades, including both chloride and sulfate TiO₂ grades.
19. Produce all documents related to replacing or considering the replacement of any volume of anatase TiO₂ with rutile TiO₂, or related to replacing or considering the replacement of any volume of anatase TiO₂ with rutile TiO₂.
20. Produce all documents related to TiO₂ produced by Chinese producers.
21. Produce all documents sufficient to show Your use or considered use of TiO₂ manufactured by a Chinese producer, including documents related to replacing or considering the replacement of any volume of TiO₂ You purchased with TiO₂ produced by a Chinese producer.
22. Produce all documents related to Your communications with any TiO₂ manufacturer or supplier concerning TiO₂ prices or supply, including but not limited to “meet or release” demands and negotiations.

DEFINITIONS

1. The terms “FTC”, “Commission” means the Federal Trade Commission and its employees, Commissioners, attorneys, accountants, economists, staff, consultants, experts, agents, and representatives.
2. The term “Cristal” means The National Industrialization Company, The National Titanium Dioxide Company Limited, and Cristal USA Inc., their domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships, and joint ventures, and all directors, officers, employees, agents, and representatives of the foregoing.
3. The term “Respondent” or “Tronox” means Tronox Limited, its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships, and joint ventures, and all directors, officers, employees, agents, and representatives of the foregoing.
4. The term “You” or “Yours” refers to PPG, its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships, and joint ventures, and all directors, officers, employees, agents, and representatives of the foregoing.
5. The terms “Subsidiary,” “Affiliate,” and “Joint Venture” refer to any person in which there is partial (25% or more) or total ownership or control between a person and any other person.

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6. The term “this litigation” means the administrative proceeding in front of the Honorable D. Michael Chappell, Chief Administrative Law Judge, at the Federal Trade Commission (In the Matter of Tronox Limited, et al., Docket No. 9377).
7. The term “Transaction” or “Proposed Acquisition” means the acquisition of Cristal’s titanium dioxide business by Tronox pursuant to the Transaction Agreement between the National Titanium Dioxide Company Limited, Tronox Limited, and Cristal Inorganic Chemicals Netherlands Coöperatief W.A., dated February 21, 2017.
8. The term “Document” is used herein in its customary and broadest sense under FTC Rules § 3.34(a), and includes, without limitation: the original or a copy as well as drafts and all versions of all writings and recordings; material that is stored, compiled or organized by means of any electronic, magnetic, optical or mechanical device, such as by handwriting, typewriting, printing, photostating, or filming; agreements, analytical data, art work, audio recordings, books, bulletins, calendars, computer tapes, computer storage media, contracts, correspondence, diagrams, diaries, drawings, email, facsimiles, forms, interoffice communications, keypunch cards, letters, memoranda, messages, notes, papers, photographs, pictures, pleadings, proposals, reports, studies, surveys, sketches, telexes, telegrams, telecopies, telegraphs, telex communications, video recordings, and worksheets; and any writing or recording prepared on or with any other physical objects.
9. “Identify” or “Identity” means: (a) when used in reference to a natural person, state his or her full name, address, and telephone number; (b) when used in reference to a corporation, state its full corporate name, any names under which it does business, and its place of incorporation; (c) when used in reference to a partnership, state its full name, any name under which it does business, the place or any certificate of partnership, state its full name, any name under which it does business, the place or any certificate of partnership (or other similar document) filing, and the address of its principal place of business; (d) when used in reference to a document, state the document, litigation number or Bates number, if applicable, otherwise the number of pages and the nature of the Document (e.g., letter, memorandum, etc.), its title, its date, the name or names of its authors or recipients, and its present location or custodian; (e) when used in reference to a communication, if any part of the communication was written, Identify the document or documents which refer to, relate to, or evidence the communication, and, to the extent that the communication was non-written, Identify the Persons, participating in or witnessing the communication, and state the date and substance of the communication.
10. The term “relating to” means relating to, reflecting, concerning, referring to, constituting, embodying, connected to, in connection with, comprising, regarding, evidencing, describing, identifying, stating, analyzing, containing information concerning, and/or in any way pertaining to the subject matter of this Action. The term “including” means including, but not limited to.
11. The term “Second Request” means the FTC’s Request for Additional Information and Documentary Evidence issued to Tronox on April 13, 2017, Transaction Identification Numbers 2017-0896 and 2017-0897.

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12. "Investigation" refers to the investigation, including the issuance of the Second Request, that the FTC conducted leading up to this action.
13. The term "TiO₂" means titanium dioxide (regardless of the process used to produce TiO₂).
14. Any other term used in this Document Request that is not defined has the meaning that producers, sellers, distributions, or purchasers of TiO₂ use in the ordinary course of business.
15. For purposes of construing the scope of these Requests:
 - A. The use of the singular form of any word includes the plural and vice versa.
 - B. The word "including" shall be construed to introduce a non-exhaustive list, and and to mean "including, but not limited to."
 - C. The terms "all," "any," and "each" shall each be construed as addressing any and all.
 - D. The connectives "and" or "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
 - E. The scope of these Requests shall not be construed narrowly based on any inferences drawn from the phrasing of any other Request.
 - F. Any reference to communications "between" two parties shall include any and all communications involving both parties whether or not additional parties are involved and whether or not both parties are recipients of the communication.
 - G. The masculine form of a word should be read to include the feminine, and the feminine form of a word should be read to include the masculine. And any pronouns shall be construed to refer to the masculine, feminine, or neuter gender as is most appropriate in each case.

INSTRUCTIONS

1. You are to divulge all information and Documents which are in Your possession, custody, or control or which can be ascertained upon reasonable investigation of areas within Your control. The knowledge of Your attorney is deemed to be Your knowledge so that, apart from privileged matters, if Your attorney has knowledge of the information sought to be elicited herein said knowledge must be incorporated into these answers even if such information is unknown to You individually.
2. Documents include those which are in Your possession, or under Your actual or constructive custody, or control, whether or not such documents were received from or

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disseminated to any other person or entity including, but not limited to, attorneys, accountants, consultants, employees, and third parties.

3. If You do not have possession, custody, or control of any Documents described in any one or more of the following Requests, a written statement that You do not have possession, custody, or control of any such Documents and the name and address of the Person who does have possession, custody, or control of such Documents is a sufficient response to the Request. However, production of such Documents shall be required if You or any of Your agents, employees, servants, or representatives have possession, custody, or control of the same. Unless the Request specifically directs production of the originals of the Documents, delivery of an accurate, legible and complete photocopy of the Documents to the requesting attorney is a sufficient response to the Request.
4. The obligation to produce the documents sought by these Requests is of a continuing nature pursuant to FTC Rules § 3.31(e). If at any time after responding to these Requests You should acquire actual or constructive possession, custody, or control of any additional documents within the scope of a particular Request, You must produce such documents to counsel for Tronox in a timely manner.
5. All documents should be produced in an orderly manner (and with appropriate markings or other identification) so that Tronox will be able to Identify the source of the document, the file in which it was maintained, and the Person to whom the file belonged.
6. Pursuant to FTC Rules § 3.37(c)(i), Documents shall be organized and designated to correspond to the categories in the Request or produced as they are kept in the usual course of business.
7. All documents are to be produced in electronic form. All documents except spreadsheet and presentation files (such as Excel and PowerPoint files) should be produced in single page Tagged Image File Format (TIFF), together with any related field-delimited loadfiles (e.g., Concordance DAT, CSV, OPT, LOG). The following fields should be included in the loadfiles: begin Bates number; end Bates number; begin Attachment Bates number; end Attachment Bates number; custodian; document date (for non-email messages and those collected in hard copy); date sent (for email messages); date modified (for non-email messages); to (for email messages); from (for email messages); cc (for email messages); bcc (for email messages); subject (for email messages); filename (for electronically collected files); filepathway (for electronically collected files); text (extracted from electronically collected files, including email, and OCR'd for documents collected in hard copy); and confidentiality designation. All images should be endorsed with a unique Bates number as well as appropriate confidentiality designation. The Bates number should consist of a prefix which can be used to identify the producing party and a page number. These endorsements should not obstruct any portion of the text in the image. All spreadsheet and presentation files, such as Excel and PowerPoint files, should be provided in native format with a link to the native file in the loadfile.
8. All documents responsive to this document request, regardless of format or form and regardless of whether submitted in hard copy or electronic format:

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- A. Shall be produced in complete form, un-redacted unless privileged, and in the order in which they appear in Your files.
 - B. Shall be marked on each page with identification and consecutive document control numbers;
 - C. If written in a language other than English, shall be translated into English, with the English translation attached to the foreign language document;
 - D. Shall be produced in color where necessary to interpret the document (if the coloring of any document communicates any substantive information, or if black-and-white photocopying or conversion to TIFF format of any document (e.g., a chart or graph) makes any substantive information contained in the document unintelligible, PPG must submit the original document, a like-colored photocopy, or a JPEG format image;
 - E. Shall be accompanied by an index that identifies: (i) the name of each person from whom responsive documents are submitted; and (ii) the corresponding consecutive document control number(s) used to identify that person's documents, and if submitted in paper form, the box number containing such documents. Tronox's representative will provide a sample index upon request.
9. If You object to any part of a Request and refuse to answer, then You shall state Your complete objection and all bases therefore, and also shall provide a complete answer to the remaining portion of the Request.
10. If You object to a Request as vague or ambiguous in language, then You shall state Your complete objection and all bases therefore, including a specific statement identifying the particular words, terms, or phrases that You assert render the Request objectionable.
11. If You object to a Request as overly broad or unduly burdensome in scope, in time period, or for any other reason, then You shall state Your complete objection and all bases therefore, and also shall respond to the Request as narrowed to the least extent necessary to render it not objectionable in Your opinion. You shall include in Your response a specific statement as to why You believe the scope or time period is inappropriate and the extent to which the scope or time period has been narrowed in Your response.
12. If any requested Document or thing is no longer in Your possession, custody, or control, state whether it was lost, destroyed or otherwise disposed of and describe the circumstances of such disposition, including: (a) an identification of the Document, thing, or information, including date, title, author, and number of pages; (b) a brief description of its nature (e.g., letter, memorandum, chart, prototype) and subject matter; (c) an identification of all Persons who received copies of it; (d) a statement of the reasons for and circumstances of its destruction; (e) an identification of each Person having any knowledge of its destruction; and (f) an identification of the Person(s) responsible for its destruction.

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13. If no Documents are responsive to a particular Request, then that fact shall be specifically indicated in Your response.
14. If, after exercising due diligence to make inquiries and secure necessary information, You cannot answer a Request fully and completely, then You shall so state in Your responses. Additionally, You shall provide the following information in its response to each such Request: (a) an answer to the discovery request to the fullest extent possible; (b) a statement specifying the portion of the discovery request that You claim You are unable to answer fully and completely; (c) a statement of the facts upon which You rely to support Your contention that You are unable to answer fully and completely; and (d) a statement specifying what knowledge, information, and beliefs You have concerning the unanswered portion of the discovery request.
15. When any original, draft, copy, or reproduction of any Document responsive to a Request is or has been revised to include, exclude, or alter any portion, addendum, notation, alteration, emendation, change, or amendment, You shall produce each such original draft, copy, or reproduction as well as all subsequent versions and revisions.
16. You shall produce all Documents in their entirety, including attachments, enclosures, cover letters, memoranda, and appendices, without abbreviation or redaction.
17. If You contend that any requested Document is privileged and therefore not subject to production, you shall Identify the Document in Your written response by describing the Document sufficiently to allow Tronox to move the court to compel its disclosure. The description should include, but is not limited to, the following information:
 - A. The name of each Person who prepared the Document;
 - B. The name of each Person to whom the Document was addressed and/or distributed;
 - C. The date of the Document;
 - D. A description of the general nature of the Document;
 - E. The specific privilege(s) which You contend applies to the Document;
 - F. The ground upon which You rely to establish the privilege as to the Document.
18. If You contend any portion of any requested Document is privileged and therefore not subject to production, Identify and produce any non-privileged portions for each such Document.
19. If certain requests are duplicative of previous requests to which documents have already been produced, You need not reproduce such documents, but is requested to notify Tronox that such documents are among those already produced.

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20. Unless otherwise stated, construe each request independently and without reference to any other purpose of limitation.
21. Your response to these document requests shall be delivered to the attention of Michael F. Williams, P.C., between 8:30 a.m. and 5:00 p.m. on any business day to Kirkland & Ellis LLP, 655 Fifteenth Street, N.W., Washington, D.C. 20005. For courier or other delivery, please contact Michael F. Williams, P.C. at (202) 879-5123 or mwilliams@kirkland.com.

January 24, 2018

Respectfully submitted,

/s/ Michael F. Williams, P.C.

Michael F. Williams, P.C.
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KIRKLAND & ELLIS LLP
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david.zott@kirkland.com

ATTORNEYS FOR TRONOX LIMITED

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 24, 2018, I caused a true and correct copy of the foregoing Subpoena *Duces Tecum* to be served via e-mail upon the following:

Chuck Loughlin (cloughlin@ftc.gov)
Dominic Vote (dvote@ftc.gov)
Federal Trade Commission
600 Pennsylvania Avenue NW
Washington, DC 20580

Seth J. Wiener (Seth.Wiener@apks.com)
James L. Cooper (James.Cooper@apks.com)
Peter J. Levitas (Peter.Levitas@apks.com)
Ryan Z. Watts (Ryan.Watts@apks.com)
Carlamaria Mata (Carlamaria.mata@apks.com)
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Avenue NW
Washington, DC 20001

/s/ Michael F. Williams, P.C.
Michael F. Williams, P.C.

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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of

Tronox Limited,
a corporation,

National Industrialization Company
(TASNEE)
a corporation,

National Titanium Dioxide Company
Limited (Cristal)
a corporation, and

Cristal USA Inc.
a corporation,

Respondents.

DOCKET NO. 9377

PROTECTIVE ORDER GOVERNING CONFIDENTIAL MATERIAL

Commission Rule 3.31(d) states: "In order to protect the parties and third parties against improper use and disclosure of confidential information, the Administrative Law Judge shall issue a protective order as set forth in the appendix to this section." 16 C.F.R. § 3.31(d). Pursuant to Commission Rule 3.31(d), the protective order set forth in the appendix to that section is attached verbatim as Attachment A and is hereby issued.

ORDERED:

Dm Chappell

D. Michael Chappell
Chief Administrative Law Judge

Date: December 7, 2017

ATTACHMENT A

For the purpose of protecting the interests of the parties and third parties in the above-captioned matter against improper use and disclosure of confidential information submitted or produced in connection with this matter:

IT IS HEREBY ORDERED THAT this Protective Order Governing Confidential Material ("Protective Order") shall govern the handling of all Discovery Material, as hereafter defined.

1. As used in this Order, "confidential material" shall refer to any document or portion thereof that contains privileged, competitively sensitive information, or sensitive personal information. "Sensitive personal information" shall refer to, but shall not be limited to, an individual's Social Security number, taxpayer identification number, financial account number, credit card or debit card number, driver's license number, state-issued identification number, passport number, date of birth (other than year), and any sensitive health information identifiable by individual, such as an individual's medical records. "Document" shall refer to any discoverable writing, recording, transcript of oral testimony, or electronically stored information in the possession of a party or a third party. "Commission" shall refer to the Federal Trade Commission ("FTC"), or any of its employees, agents, attorneys, and all other persons acting on its behalf, excluding persons retained as consultants or experts for purposes of this proceeding.
2. Any document or portion thereof submitted by a respondent or a third party during a Federal Trade Commission investigation or during the course of this proceeding that is entitled to confidentiality under the Federal Trade Commission Act, or any regulation, interpretation, or precedent concerning documents in the possession of the Commission, as well as any information taken from any portion of such document, shall be treated as confidential material for purposes of this Order. The identity of a third party submitting such confidential material shall also be treated as confidential material for the purposes of this Order where the submitter has requested such confidential treatment.
3. The parties and any third parties, in complying with informal discovery requests, disclosure requirements, or discovery demands in this proceeding may designate any responsive document or portion thereof as confidential material, including documents obtained by them from third parties pursuant to discovery or as otherwise obtained.
4. The parties, in conducting discovery from third parties, shall provide to each third party a copy of this Order so as to inform each such third party of his, her, or its rights herein.
5. A designation of confidentiality shall constitute a representation in good faith and after careful determination that the material is not reasonably believed to be already in the public domain and that counsel believes the material so designated constitutes confidential material as defined in Paragraph 1 of this Order.

6. Material may be designated as confidential by placing on or affixing to the document containing such material (in such manner as will not interfere with the legibility thereof), or if an entire folder or box of documents is confidential by placing or affixing to that folder or box, the designation "CONFIDENTIAL – FTC Docket No. 9377" or any other appropriate notice that identifies this proceeding, together with an indication of the portion or portions of the document considered to be confidential material. Confidential information contained in electronic documents may also be designated as confidential by placing the designation "CONFIDENTIAL – FTC Docket No. 9377" or any other appropriate notice that identifies this proceeding, on the face of the CD or DVD or other medium on which the document is produced. Masked or otherwise redacted copies of documents may be produced where the portions deleted contain privileged matter, provided that the copy produced shall indicate at the appropriate point that portions have been deleted and the reasons therefor.

7. Confidential material shall be disclosed only to: (a) the Administrative Law Judge presiding over this proceeding, personnel assisting the Administrative Law Judge, the Commission and its employees, and personnel retained by the Commission as experts or consultants for this proceeding; (b) judges and other court personnel of any court having jurisdiction over any appellate proceedings involving this matter; (c) outside counsel of record for any respondent, their associated attorneys and other employees of their law firm(s), provided they are not employees of a respondent; (d) anyone retained to assist outside counsel in the preparation or hearing of this proceeding including consultants, provided they are not affiliated in any way with a respondent and have signed an agreement to abide by the terms of the protective order; and (e) any witness or deponent who may have authored or received the information in question.

8. Disclosure of confidential material to any person described in Paragraph 7 of this Order shall be only for the purposes of the preparation and hearing of this proceeding, or any appeal therefrom, and for no other purpose whatsoever, provided, however, that the Commission may, subject to taking appropriate steps to preserve the confidentiality of such material, use or disclose confidential material as provided by its Rules of Practice; sections 6(f) and 21 of the Federal Trade Commission Act; or any other legal obligation imposed upon the Commission.

9. In the event that any confidential material is contained in any pleading, motion, exhibit or other paper filed or to be filed with the Secretary of the Commission, the Secretary shall be so informed by the Party filing such papers, and such papers shall be filed *in camera*. To the extent that such material was originally submitted by a third party, the party including the materials in its papers shall immediately notify the submitter of such inclusion. Confidential material contained in the papers shall continue to have *in camera* treatment until further order of the Administrative Law Judge, provided, however, that such papers may be furnished to persons or entities who may receive confidential material pursuant to Paragraphs 7 or 8. Upon or after filing any paper containing confidential material, the filing party shall file on the public record a duplicate copy of the paper that does not reveal confidential material. Further, if the protection for any such material expires, a party may file on the public record a duplicate copy which also contains the formerly protected material.

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10. If counsel plans to introduce into evidence at the hearing any document or transcript containing confidential material produced by another party or by a third party, they shall provide advance notice to the other party or third party for purposes of allowing that party to seek an order that the document or transcript be granted *in camera* treatment. If that party wishes *in camera* treatment for the document or transcript, the party shall file an appropriate motion with the Administrative Law Judge within 5 days after it receives such notice. Except where such an order is granted, all documents and transcripts shall be part of the public record. Where *in camera* treatment is granted, a duplicate copy of such document or transcript with the confidential material deleted therefrom may be placed on the public record.

11. If any party receives a discovery request in any investigation or in any other proceeding or matter that may require the disclosure of confidential material submitted by another party or third party, the recipient of the discovery request shall promptly notify the submitter of receipt of such request. Unless a shorter time is mandated by an order of a court, such notification shall be in writing and be received by the submitter at least 10 business days before production, and shall include a copy of this Protective Order and a cover letter that will apprise the submitter of its rights hereunder. Nothing herein shall be construed as requiring the recipient of the discovery request or anyone else covered by this Order to challenge or appeal any order requiring production of confidential material, to subject itself to any penalties for non-compliance with any such order, or to seek any relief from the Administrative Law Judge or the Commission. The recipient shall not oppose the submitter's efforts to challenge the disclosure of confidential material. In addition, nothing herein shall limit the applicability of Rule 4.11(e) of the Commission's Rules of Practice, 16 CFR 4.11(e), to discovery requests in another proceeding that are directed to the Commission.

12. At the time that any consultant or other person retained to assist counsel in the preparation of this action concludes participation in the action, such person shall return to counsel all copies of documents or portions thereof designated confidential that are in the possession of such person, together with all notes, memoranda or other papers containing confidential information. At the conclusion of this proceeding, including the exhaustion of judicial review, the parties shall return documents obtained in this action to their submitters, provided, however, that the Commission's obligation to return documents shall be governed by the provisions of Rule 4.12 of the Rules of Practice, 16 CFR 4.12.

13. The provisions of this Protective Order, insofar as they restrict the communication and use of confidential discovery material, shall, without written permission of the submitter or further order of the Commission, continue to be binding after the conclusion of this proceeding.

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EXHIBIT 4

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FEDERAL TRADE COMMISSION
PROTECTING AMERICA'S CONSUMERS

FTC Issues Interim Final Rules Amending Parts 3 and 4 of its Rules of Practice; Rules are Designed to Expedite and Streamline the Entire Part 3 Proceeding

Commission Seeks Further Comments on Changes to the Adjudicative Proceedings Process

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FOR RELEASE

December 23, 2008

TAGS: [Competition](#) | [Consumer Protection](#) | [FTC Operations](#) | [Merger](#)

The Federal Trade Commission today approved a notice adopting interim final rules amending Parts 3 and 4 of the agency's Rules of Practice, and requesting public comments within 30 days of the date they are published in the Federal Register.

Today's action represents the next step in the FTC's broad and systematic internal review of its adjudicative proceedings process. In October 2008, the FTC published a Notice of Proposed Rulemaking (NPRM) detailing proposed rule revisions and inviting public comment. The rules issued today represent a comprehensive and significant revision of the Commission's adjudicatory process designed to expedite the prehearing, hearing, and appeal phases, streamline discovery and motion practice, and ensure that the Commission applies its substantive expertise, as appropriate, earlier in the process. The amended rules include, for the first time, deadlines for the Commission to resolve appeals of initial decisions by the Administrative Law Judges (ALJs). They will apply prospectively only, to new cases initiated after publication in the Federal Register.

The Commission's Part 3 process has long been criticized as being too protracted. In merger cases, parties frequently argue that drawn out proceedings will result in their abandoning transactions before the antitrust merits can be adjudicated; and the protracted nature of Part 3 proceedings has contributed to the reluctance of some federal courts to grant preliminary injunctive relief in merger cases brought under Section 13(b) of the FTC Act. Moreover, protracted Part 3 proceedings do not necessarily result in decisions that are more just or fair, and instead may result in substantially increased litigation costs for the Commission and respondents whose transactions or practices are challenged. For example, protracted discovery schedules and pretrial proceedings can result in nonessential discovery and motion practice that can be very costly to the Commission, respondents, and third parties.

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The goal of the current rulemaking is to address these concerns by making appropriate changes to streamline and otherwise improve the Part 3 process, while balancing three factors: 1) the public interest in a high-quality decision-making process; 2) the interests of justice in an expeditious review of litigated matters; and 3) the interest of the parties in litigating matters without unnecessary expense.

The Commission received eight comments on the proposed rule amendments after the NPRM was published in October. After considering these comments, the agency has modified several of the proposed rule changes outlined in the NPRM and has issued a rule setting strict deadlines on Commission review of initial decisions.

First, as detailed in the notice, the interim final rules impose deadlines designed to expedite the prehearing phase. The revised rules require the date of the evidentiary hearing be set in a notice accompanying issuance of the complaint. This hearing would be held five months from the date of the complaint in cases in which the Commission also seeks preliminary injunctive relief under Section 13(b) of the FTC Act, and eight months from this date in all other cases, unless the Commission decides that a different date would be appropriate. The rules also authorize the Commission to delay the hearing date for good cause after issuance of the complaint. Respondents will be required to file answers to the complaint within 14 days of service instead of the current 20, and the initial meet-and-confer session as well as the initial scheduling conference will be scheduled sooner in order to facilitate earlier commencement of discovery.

Other rule changes are designed to expedite and improve the discovery process and motion practice. For example, the rules limit the scope of the search for discoverable materials for complaint counsel, respondents, and third parties to minimize the burden of search costs, specify procedures governing the discovery of electronically stored information, and expressly limit waivers resulting from the inadvertent disclosure of privileged materials. The rules also require the ALJ to issue a standard protective order designed to limit delays and ensure that privileged or confidential information is treated consistently in all Part 3 cases. They also impose word-count limits on all motions, set deadlines to identify expert witnesses and to submit expert reports, and limit the number of expert witnesses.

The rules now provide that the Commission decides in the first instance all prehearing dispositive motions, including motions for summary decision (unless it refers the motion to the ALJ) within 45 days of the filing of the motion papers to ensure that the Commission apply its legal expertise earlier in the process. After considering commenters' concerns about the role of the agency in resolving such motions in the first instance, the Commission continues to believe that the revised rule, which is concerned with motions that raise public policy or purely legal issues, does not improperly interfere with the independence of the ALJ.

The Commission also amended the rules to eliminate automatic withdrawals from adjudication or stays of the Part 3 proceedings when a party files a motion for withdrawal or to dismiss after the denial of a preliminary injunction in a related federal court action brought by the agency. At the same time, the FTC amended the rule to promote earlier consideration of whether to proceed with Part 3 adjudication and affirmed its adherence to its 1995 Policy Statement calling for a case-by-case analysis of whether Part 3 litigation should be pursued after a denial of a preliminary injunction. The notice also states that, after due consideration of commenters' concerns, the Commission has decided not to adopt a proposed rule revision that would have made explicit the authority of the FTC or one of its members to preside over pre-hearing procedures before transferring the matter to an ALJ.

The amendments are also designed to expedite and improve the evidentiary hearing and post-hearing phases. For example, the length of hearings is limited to 210 hours (the equivalent of 30 seven-hour trial days) unless extended for good cause by the Commission; hearsay evidence – including prior testimony – is expressly permitted if deemed sufficiently reliable; witness testimony is to be video recorded and made part of the official record to permit the Commission on review to observe witness demeanor; and deadlines are imposed for the simultaneous filing of proposed findings, conclusions, and supporting briefs after the hearing. The rules also require that the ALJ must file the initial decision within 70 days of the filing of the last-filed proposed findings, conclusions and briefs.

The Commission stated that comments filed in response to the NPRM had not persuaded the agency that its default timing deadlines are unfair or that respondents in Part 3 proceedings would have inadequate time to pursue broad discovery or present its case at the hearing. The Commission also determined that the comments failed to give adequate

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weight to provisions authorizing the agency to grant extension for "good cause." The Commission believes the Part 3 timing deadlines are consistent with the manner in which federal courts can manage and resolve complex antitrust cases.

In response to commenters' concerns, the interim final rules impose deadlines on the Commission to review initial decisions and issue final decisions. For cases in which the agency seeks preliminary relief under Section 13(b) of the FTC Act, there will be an automatic Commission review of the initial decision, briefing will be completed within 45 days of the issuance of the initial decision, and the Commission will issue its final decision within 45 days of the oral argument; in these cases, the final decision will be issued 100 days after the initial decision. For all other cases, parties will need to file a notice of appeal, briefing will be completed within 67 days of the initial decision, and the Commission will issue its final decision within 100 days of the oral argument; in these cases, the Commission will issue its final decision within six months of the initial decision. These deadlines may be adjusted slightly if a deadline falls on a weekend or holiday.

Finally, to allay concerns that the initial comment period was inadequate and to provide an opportunity for public input particularly on rule revisions that reflect changes from the proposed amendments or that were not proposed in the NPRM, the FTC is seeking public comment on the interim final rules. Comments must be received within 30 days after the notice is published in the Federal Register. Instructions for submitting comments are found in the Addresses section of the Federal Register notice.

As observed in the notice issued today, the Commission recognizes that the rule revisions should be considered an important first step, but not the end of the process. To address rule changes that may be needed in the future, the Commission is instructing its internal Standing Committee on the Part 3 rules to make bi-annual recommendations for changes to the rules.

The Commission vote to issue the interim final rules was 4-0. The notice will be available on the FTC's Web site and likely will be published in the Federal Register by January 5, 2009.

Copies of the Federal Register notice detailing the interim final rules are available from the FTC's Web site at <http://www.ftc.gov> and from the FTC's Consumer Response Center, Room 130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

(FTC File No. P072104)

Contact Information

MEDIA CONTACT:

Mitchell J. Katz,
Office of Public Affairs
202-326-2180

STAFF CONTACTS:

Michael D. Bergman,
Office of General Counsel
202-326-3184

Lisa M. Harrison,
Office of General Counsel
202-326-3204

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EXHIBIT 5

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James Koutras

Director - Senior Corporate Counsel and Secretary at Cristal USA Inc.

Summary

Experienced corporate counsel, currently managing North American legal department of major global chemical company headquartered in Jeddah, Saudi Arabia. Extensive experience in various areas of the law, including corporate governance and compliance, commercial transactions and licensing, litigation management, insurance and risk management, immigration, employment and labor law, intellectual property management.

Experience

Director - Senior Corporate Counsel and Secretary

August 2007 - Present

Manage corporate legal function and staff for Cristal USA Inc., North American subsidiary for \$ 2 billion global chemical company based out of Jeddah, Saudi Arabia. Lead counsel for the negotiation of \$ 250 million ABL Financing; Implemented and Manage Corporate Compliance Program; Manage Outside Counsel Relationships and Budgets; Lead Internal Counsel for implementation of corporate affiliate in Baar, Switzerland; Negotiate and Manage Global Corporate Insurance Program; Secretary for numerous corporate entities with reporting responsibilities to Board of Directors; Manage numerous Employment and Labor Law matters; Manage various Immigration matters, including negotiating of visa requests for individuals located in numerous European, Middle Eastern and Asian countries; Advises on various regional and global strategic initiatives; Manage Global IP Portfolio, including advising on patent filings and prosecutions.

Senior Litigation Counsel at JLG Industries

February 2006 - December 2006 (11 months)

Managed Corporate Litigation and Outside Counsel Relationships and Budgets for major aerial work platform manufacturer. Negotiated and Managed Global Corporate Insurance Program. Reported to management and Board of Directors on significant litigation matters.

Partner/Associate at McCarter & English, LLP

2000 - 2006 (7 years)

Attorney in Products Liability Practice Group. First chaired in excess of 30 jury and 100 bench trials during career. Member of firm E-Discovery Group.

Associate

1996 - 2000 (5 years)

Attorney in Insurance Defense and Product Liability law firm.

Judicial Law Clerk for the Honorable James C. Cacheris, U.S.D.Ct. for Eastern District of Virginia at United States Government

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1995 - 1996 (2 years)

Federal Law Clerk

Education

University of Baltimore School of Law

JD, Law, 1992 - 1995

University of Aberdeen

1993 - 1993

American University - Kogod School of Business

BS, Finance, 1988 - 1990

Indiana University Bloomington

Business, 1986 - 1988

Activities and Societies: Lambda Chi Alpha

PUBLIC

James Koutras

Director - Senior Corporate Counsel and Secretary at Cristal USA Inc.



Contact James on LinkedIn

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EXHIBIT 6

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Steven Kaye

Deputy General Counsel

Summary

N/A

Experience

Deputy General Counsel, Tronox Limited; General Counsel, Tronox Titanium Dioxide at Tronox Limited

July 2014 - Present

Tronox is the world's largest fully integrated producer of titanium feedstock and TiO₂ pigment and the world's largest producer of natural soda ash. Over 1,200 customers in 90 countries; 4,400 employees worldwide; 2015 revenue of \$2.1 billion; and operations in North America, Europe, South Africa, Australia and Asia (NYSE: TROX).

Manage all legal aspects of the Company's corporate activity and Titanium Dioxide business, including M&A, corporate finance, regulatory, labor and employment, environmental and commercial matters.

Manage daily operations of the global legal department, including selection of outside counsel worldwide and budgetary matters.

Advise the CEO, CFO and other senior management on the Company's public filings and related securities law issues, including earning releases, 10-Ks, 10-Qs, proxy statements, Section 16 filings, NYSE filings and SOX compliance.

Lead attorney on the Company's successful acquisition of FMC Corporation's soda ash business for \$1.6 billion.

Director - Americas Head of ECM and Equity Syndicate Compliance at Barclays Investment Bank

June 2010 - June 2014 (4 years 1 month)

Corporate Associate at Skadden, Arps, Slate, Meagher & Flom LLP & Affiliates

October 2002 - June 2010 (7 years 9 months)

Education

The George Washington University Law School

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Doctor of Law (JD), 1999 - 2002

Activities and Societies: Member of The George Washington Law Review

Emory University

Bachelor of Arts (BA), 1994 - 1998

Newark Academy

1990 - 1994

PUBLIC

Steven Kaye

Deputy General Counsel



Contact Steven on LinkedIn

PUBLIC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 1st day of February, 2018, I filed the foregoing document electronically using the FTC's E-filing system, which will send notification of such filings to:

Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Rm. H-113
Washington, DC 20580

I also hereby certify that I caused a true and correct copy of the foregoing documents to be served upon the following via electronic mail:

Chief Administrative Law Judge
Federal Trade Commission
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Washington, DC 20580

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Attorneys For Tronox Limited